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Attorneys for Defendant
ALCLEAR, LLC

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

BENNY MURRAY II, as an individual
on behalf of himself and on behalf of all
others similarly situated,

Plaintiff,

vs.

ALCLEAR, LLC, Delaware limited
liability company; and DOES 1-100,
inclusive,

Defendants.

Case No.: 2:23-cv-3051

**DECLARATION OF ERIC J. GITIG IN
SUPPORT OF DEFENDANT
ALCLEAR, LLC'S NOTICE OF
REMOVAL**

(Filed concurrently with Notice of
Removal; Declaration of Eric J. Gitig;
Civil Case Cover Sheet; Notice of
Interested Parties; and Corporate
Disclosure Statement)

Complaint Filed: February 17, 2023

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DECLARATION OF ERIC J. GITIG

I, Eric J. Gitig, declare as follows:

1. I am an attorney admitted to practice before all courts of the State of California and before this Court. I am a Principal with the law firm Jackson Lewis P.C., counsel of record for Defendant ALCLEAR, LLC (“Defendant”). I make the following declaration based on personal knowledge, unless otherwise stated, and on my review of and familiarity with Defendant’s files and documents in the above-captioned matter. If called as a witness, I could and would competently testify to the facts contained herein. I submit this declaration in support of Defendant’s Notice of Removal.

2. On March 22, 2023, Plaintiff Benny Murray II (“Plaintiff”) served Defendant with a copy of the Summons and Complaint. Attached hereto as **Exhibit “A”** are true and correct copies of Plaintiff’s Summons, Complaint, and related court documents filed in the Los Angeles County Superior Court, which were served on Defendant.

3. On April 19, 2023, Defendant filed and served an Answer to the Complaint in the Los Angeles Superior Court, making a general denial as permitted by California Code of Civil Procedure § 431.30(d) and asserting various affirmative defenses. Attached hereto as **Exhibit “B”** is a true and correct copy of Defendant’s Answer to Plaintiff’s Complaint filed in the Superior Court of the State of California in and for the County of Los Angeles on April 19, 2023.

4. To the best of my knowledge and based on information and belief, **Exhibits “A”** and **“B”** constitute all of the pleadings received by the Defendant in state court.

5. I am not aware of any individual or entity being substituted in as a Doe defendant in the state court action.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct.

Executed this 21st day of April, 2023, at Los Angeles, California.

/s/ Eric J. Gitig
ERIC J. GITIG

4876-7918-3454, v. 1

EXHIBIT A

**SUMMONS
(CITACION JUDICIAL)**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

ALCLEAR, LLC, a Delaware limited liability company; and
DOES 1-100, inclusive

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

BENNY MURRAY II, as an individual on behalf of himself
and on behalf of all others similarly situated

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):

Superior Court of California, County of Los Angeles - Stanley Mosk Courthouse
111 North Hill Street, Los Angeles, CA 90012

CASE NUMBER:
(Número del Caso):

23STCV03573

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

CROSNER LEGAL, PC 9440 Santa Monica Blvd., Ste. 301, Beverly Hills, CA 90210 Tel: (310) 496-5818

David W. Slayton, Executive Officer/Clerk of Court
Clerk, by

DATE: 02/17/2023

(Fecha)

(Secretario)

G. Carini

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.

2. ☐ as the person sued under the fictitious name of (specify):

3. ☒ on behalf of (specify): ALCLEAR, LLC, a Delaware limited liability company

under: ☐ CCP 416.10 (corporation)

☐ CCP 416.60 (minor)

☐ CCP 416.20 (defunct corporation)

☐ CCP 416.70 (conservatee)

☐ CCP 416.40 (association or partnership)

☐ CCP 416.90 (authorized person)

☒ other (specify): limited liability company

4. ☐ by personal delivery on (date):

[SEAL]



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Michael R. Crosner (SBN 41299), Zachary M. Crosner (SBN. 272295), Jamie Serb (SBN 289601) CROSNER LEGAL PC, 9440 Santa Monica Blvd., Ste. 301, Beverly Hills, CA 90210 TELEPHONE NO.: (310) 496-5818 FAX NO. (Optional): (310) 510-6429 E-MAIL ADDRESS: zach@crosnerlegal.com, jamie@crosnerlegal.com ATTORNEY FOR (Name): Benny Murray II		FOR COURT USE ONLY		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES STREET ADDRESS: 111 N. Hill St. MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles, 90012 BRANCH NAME: Stanley Mosk				
CASE NAME: Benny Murray II v. Alclear, LLC				
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px;"> CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less) </td> <td style="width: 50%; padding: 5px;"> Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402) </td> </tr> </table>			CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)			
JUDGE: DEPT.:				

Items 1–6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input checked="" type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|---|
| a. <input type="checkbox"/> Large number of separately represented parties
b. <input checked="" type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. <input checked="" type="checkbox"/> Substantial amount of documentary evidence | d. <input checked="" type="checkbox"/> Large number of witnesses
e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
|--|---|
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): **7**
5. This case ☒ is ☐ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)
 Date: February 17, 2023

Zachary Crosner _____

(TYPE OR PRINT NAME)

 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

CM-010

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)–Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

SHORT TITLE Benny Murray II v. Alclear, LLC	CASE NUMBER 238TCV03573
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CIVIL CASE COVER SHEET ADDENDUM AND STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)

This form is required pursuant to Local Rule 2.3 in all new civil case filings in the Los Angeles Superior Court

Step 1: After completing the Civil Case Cover Sheet (Judicial Council form CM-010), find the exact case type in Column A that corresponds to the case type indicated in the Civil Case Cover Sheet.

Step 2: In Column B, check the box for the type of action that best describes the nature of the case.

Step 3: In Column C, circle the number which explains the reason for the court filing location you have chosen.

Applicable Reasons for Choosing Courthouse Location (Column C)

1. Class Actions must be filed in the Stanley Mosk Courthouse, Central District.	7. Location where petitioner resides.
2. Permissive filing in Central District.	8. Location wherein defendant/respondent functions wholly.
3. Location where cause of action arose.	9. Location where one or more of the parties reside.
4. Location where bodily injury, death or damage occurred.	10. Location of Labor Commissioner Office.
5. Location where performance required, or defendant resides.	11. Mandatory filing location (Hub Cases – unlawful detainer, limited non-collection, limited collection).
6. Location of property or permanently garaged vehicle.	

	A Civil Case Cover Sheet Case Type	B Type of Action (check only one)	C Applicable Reasons (see Step 3 above)
Auto Tort	Auto (22)	<input type="checkbox"/> 2201 Motor Vehicle – Personal Injury/Property Damage/Wrongful Death	1, 4
	Uninsured Motorist (46)	<input type="checkbox"/> 4601 Uninsured Motorist – Personal Injury/Property Damage/Wrongful Death	1, 4
Other Personal Injury/ Property Damage/ Wrongful Death	Other Personal Injury/ Property Damage/ Wrongful Death (23)	<input type="checkbox"/> 2301 Premise Liability (e.g., dangerous conditions of property, slip/trip and fall, dog attack, etc.)	1, 4
		<input type="checkbox"/> 2302 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, battery, vandalism, etc.)	1, 4
		<input type="checkbox"/> 2303 Intentional Infliction of Emotional Distress	1, 4
		<input type="checkbox"/> 2304 Other Personal Injury/Property Damage/Wrongful Death	1, 4
		<input type="checkbox"/> 2305 Elder/Dependent Adult Abuse/Claims Against Skilled Nursing Facility	1, 4
		<input type="checkbox"/> 2306 Intentional Conduct – Sexual Abuse Case (in any form)	1, 4

SHORT TITLE Benny Murray II v. Alclear, LLC	CASE NUMBER
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	A Civil Case Cover Sheet Case Type	B Type of Action (check only one)	C Applicable Reasons (see Step 3 above)
		<input type="checkbox"/> 2307 Construction Accidents	1, 4
		<input type="checkbox"/> 2308 Landlord – Tenant Habitability (e.g., bed bugs, mold, etc.)	1, 4
Other Personal Injury/ Property Damage/ Wrongful Death	Product Liability (24)	<input type="checkbox"/> 2401 Product Liability (not asbestos or toxic/ environmental)	1, 4
		<input type="checkbox"/> 2402 Product Liability – Song-Beverly Consumer Warranty Act (CA Civil Code §§1790-1795.8) (Lemon Law)	1, 3, 5
	Medical Malpractice (45)	<input type="checkbox"/> 4501 Medical Malpractice – Physicians & Surgeons	1, 4
		<input type="checkbox"/> 4502 Other Professional Health Care Malpractice	1, 4
	Non-Personal Injury/Property Damage/Wrongful Death Tort	Business Tort (07)	<input type="checkbox"/> 0701 Other Commercial/Business Tort (not fraud or breach of contract)
Civil Rights (08)		<input type="checkbox"/> 0801 Civil Rights/Discrimination	1, 2, 3
Defamation (13)		<input type="checkbox"/> 1301 Defamation (slander/libel)	1, 2, 3
Fraud (16)		<input type="checkbox"/> 1601 Fraud (no contract)	1, 2, 3
Professional Negligence (25)		<input type="checkbox"/> 2501 Legal Malpractice	1, 2, 3
		<input type="checkbox"/> 2502 Other Professional Malpractice (not medical or legal)	1, 2, 3
Other (35)		<input type="checkbox"/> 3501 Other Non-Personal Injury/Property Damage Tort	1, 2, 3
Employment	Wrongful Termination (36)	<input type="checkbox"/> 3601 Wrongful Termination	1, 2, 3
	Other Employment (15)	<input checked="" type="checkbox"/> 1501 Other Employment Complaint Case	1, 2, 3
		<input type="checkbox"/> 1502 Labor Commissioner Appeals	10
Contract	Breach of Contract / Warranty (06) (not insurance)	<input type="checkbox"/> 0601 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction)	2, 5
		<input type="checkbox"/> 0602 Contract/Warranty Breach – Seller Plaintiff (no fraud/negligence)	2, 5
		<input type="checkbox"/> 0603 Negligent Breach of Contract/Warranty (no fraud)	1, 2, 5
		<input type="checkbox"/> 0604 Other Breach of Contract/Warranty (no fraud/ negligence)	1, 2, 5
		<input type="checkbox"/> 0605 Breach of Rental/Lease Contract (COVID-19 Rental Debt)	2, 5
	Collections (09)	<input type="checkbox"/> 0901 Collections Case – Seller Plaintiff	5, 6, 11
		<input type="checkbox"/> 0902 Other Promissory Note/Collections Case	5, 11
		<input type="checkbox"/> 0903 Collections Case – Purchased Debt (charged off consumer debt purchased on or after January 1, 2014)	5, 6, 11
		<input type="checkbox"/> 0904 Collections Case – COVID-19 Rental Debt	5, 11
	Insurance Coverage (18)	<input type="checkbox"/> 1801 Insurance Coverage (not complex)	1, 2, 5, 8

SHORT TITLE Benny Murray II v. Alclear, LLC	CASE NUMBER
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	A Civil Case Cover Sheet Case Type	B Type of Action (check only one)	C Applicable Reasons (see Step 3 above)
Contract (Continued)	Other Contract (37)	<input type="checkbox"/> 3701 Contractual Fraud	1, 2, 3, 5
		<input type="checkbox"/> 3702 Tortious Interference	1, 2, 3, 5
		<input type="checkbox"/> 3703 Other Contract Dispute (not breach/insurance/fraud/negligence)	1, 2, 3, 8, 9
Real Property	Eminent Domain/ Inverse Condemnation (14)	<input type="checkbox"/> 1401 Eminent Domain/Condemnation Number of Parcels _____	2, 6
	Wrongful Eviction (33)	<input type="checkbox"/> 3301 Wrongful Eviction Case	2, 6
	Other Real Property (26)	<input type="checkbox"/> 2601 Mortgage Foreclosure	2, 6
		<input type="checkbox"/> 2602 Quiet Title	2, 6
		<input type="checkbox"/> 2603 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2, 6
Unlawful Detainer	Unlawful Detainer – Commercial (31)	<input type="checkbox"/> 3101 Unlawful Detainer – Commercial (not drugs or wrongful eviction)	6, 11
	Unlawful Detainer – Residential (32)	<input type="checkbox"/> 3201 Unlawful Detainer – Residential (not drugs or wrongful eviction)	6, 11
	Unlawful Detainer – Post Foreclosure (34)	<input type="checkbox"/> 3401 Unlawful Detainer – Post Foreclosure	2, 6, 11
	Unlawful Detainer – Drugs (38)	<input type="checkbox"/> 3801 Unlawful Detainer – Drugs	2, 6, 11
Judicial Review	Asset Forfeiture (05)	<input type="checkbox"/> 0501 Asset Forfeiture Case	2, 3, 6
	Petition re Arbitration (11)	<input type="checkbox"/> 1101 Petition to Compel/Confirm/Vacate Arbitration	2, 5
	Writ of Mandate (02)	<input type="checkbox"/> 0201 Writ – Administrative Mandamus	2, 8
		<input type="checkbox"/> 0202 Writ – Mandamus on Limited Court Case Matter	2
		<input type="checkbox"/> 0203 Writ – Other Limited Court Case Review	2
	Other Judicial Review (39)	<input type="checkbox"/> 3901 Other Writ/Judicial Review	2, 8
		<input type="checkbox"/> 3902 Administrative Hearing	2, 8
		<input type="checkbox"/> 3903 Parking Appeal	2, 8
Provisionally Complex Litigation	Antitrust/Trade Regulation (03)	<input type="checkbox"/> 0301 Antitrust/Trade Regulation	1, 2, 8
	Asbestos (04)	<input type="checkbox"/> 0401 Asbestos Property Damage	1, 11
		<input type="checkbox"/> 0402 Asbestos Personal Injury/Wrongful Death	1, 11

SHORT TITLE Benny Murray II v. Alclear, LLC	CASE NUMBER
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	A Civil Case Cover Sheet Case Type	B Type of Action (check only one)	C Applicable Reasons (see Step 3 above)
Provisionally Complex Litigation (Continued)	Construction Defect (10)	<input type="checkbox"/> 1001 Construction Defect	1, 2, 3
	Claims Involving Mass Tort (40)	<input type="checkbox"/> 4001 Claims Involving Mass Tort	1, 2, 8
	Securities Litigation (28)	<input type="checkbox"/> 2801 Securities Litigation Case	1, 2, 8
	Toxic Tort Environmental (30)	<input type="checkbox"/> 3001 Toxic Tort/Environmental	1, 2, 3, 8
	Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> 4101 Insurance Coverage/Subrogation (complex case only)	1, 2, 5, 8
Enforcement of Judgment	Enforcement of Judgment (20)	<input type="checkbox"/> 2001 Sister State Judgment	2, 5, 11
		<input type="checkbox"/> 2002 Abstract of Judgment	2, 6
		<input type="checkbox"/> 2004 Administrative Agency Award (not unpaid taxes)	2, 8
		<input type="checkbox"/> 2005 Petition/Certificate for Entry of Judgment Unpaid Tax	2, 8
		<input type="checkbox"/> 2006 Other Enforcement of Judgment Case	2, 8, 9
Miscellaneous Civil Complaints	RICO (27)	<input type="checkbox"/> 2701 Racketeering (RICO) Case	1, 2, 8
	Other Complaints (not specified above) (42)	<input type="checkbox"/> 4201 Declaratory Relief Only	1, 2, 8
		<input type="checkbox"/> 4202 Injunctive Relief Only (not domestic/harassment)	2, 8
		<input type="checkbox"/> 4203 Other Commercial Complaint Case (non-tort/noncomplex)	1, 2, 8
		<input type="checkbox"/> 4204 Other Civil Complaint (non-tort/non-complex)	1, 2, 8
Miscellaneous Civil Petitions	Partnership Corporation Governance (21)	<input type="checkbox"/> 2101 Partnership and Corporation Governance Case	2, 8
	Other Petitions (not specified above) (43)	<input type="checkbox"/> 4301 Civil Harassment with Damages	2, 3, 9
		<input type="checkbox"/> 4302 Workplace Harassment with Damages	2, 3, 9
		<input type="checkbox"/> 4303 Elder/Dependent Adult Abuse Case with Damages	2, 3, 9
		<input type="checkbox"/> 4304 Election Contest	2
		<input type="checkbox"/> 4305 Petition for Change of Name/Change of Gender	2, 7
		<input type="checkbox"/> 4306 Petition for Relief from Late Claim Law	2, 3, 8
		<input type="checkbox"/> 4307 Other Civil Petition	2, 9

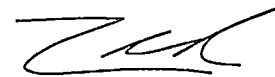
SHORT TITLE Benny Murray II v. Alclear, LLC	CASE NUMBER
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Step 4: Statement of Reason and Address: Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected. Enter the address, which is the basis for the filing location including zip code. (No address required for class action cases.)

REASON: <input checked="" type="checkbox"/> 1. <input type="checkbox"/> 2. <input type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10. <input type="checkbox"/> 11			ADDRESS:
CITY:	STATE:	ZIP CODE:	

Step 5: Certification of Assignment: I certify that this case is properly filed in the Central District of the Superior Court of California, County of Los Angeles [Code of Civ. Proc., 392 et seq., and LASC Local Rule 2.3(a)(1)(E)]

Dated: 02/17/2023



(SIGNATURE OF ATTORNEY/FILING PARTY)

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form LASC CIV 109 (01/23).
5. Payment in full of the filing fee, unless there is a court order for waiver, partial or schedule payments.
6. A signed order appointing a Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court to issue a Summons.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the Summons and Complaint, or other initiating pleading in the case.

Assigned for all purposes to: Spring Street Courthouse, Judicial Officer: David Cunningham III

Electronically FILED by Superior Court of California, County of Los Angeles on 02/17/2023 03:57 PM David W. Slayton, Executive Officer/Clerk of Court, by G. Carini, Deputy Clerk

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7 Attorneys for Plaintiff

8 As an individual and on behalf of all others similarly situated

9
 10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **COUNTY OF LOS ANGELES**

12 BENNY MURRAY II, as an individual on
 behalf of himself and on behalf of all others
 13 similarly situated,

14 Plaintiff,

15 v.

16 ALCLEAR, LLC, a Delaware limited
 17 liability company; and DOES 1-100,
 18 inclusive,

19 Defendants.

Case No.: 23STCV03573

CLASS ACTION COMPLAINT FOR:

1. **Recovery of Unpaid Minimum Wages and Liquidated Damages**
2. **Recovery of Unpaid Overtime Wages**
3. **Failure to Provide Meal Periods or Compensation in Lieu Thereof**
4. **Failure to Provide Rest Periods or Compensation in Lieu Thereof**
5. **Failure to Furnish Accurate Itemized Wage Statements**
6. **Failure to Reimburse Business Expenses and**
7. **Unfair Competition**

DEMAND FOR JURY TRIAL

1 Plaintiff, BENNY MURRAY II (“PLAINTIFF”), an individual on behalf of himself and all
2 other similarly situated Class Members (as defined below), hereby files this Complaint against
3 Defendants ALCLEAR, LLC, a Delaware limited liability company; and DOES 1-100, inclusive,
4 (collectively referred to herein as “DEFENDANTS”). PLAINTIFF is informed and believes and
5 thereon alleges as follows:

6 **JURISDICTION AND VENUE**

7 1. This court possesses original subject matter jurisdiction over this matter. Venue is
8 proper in the County of Los Angeles pursuant to California Code of Civil Procedure section 395.5
9 because DEFENDANTS transact business within this judicial district, DEFENDANTS employed
10 PLAINTIFF to work in this judicial district and some of the acts, omissions, and conduct alleged by
11 PLAINTIFF herein occurred in this this judicial district.

12 **THE PARTIES**

13 2. PLAINTIFF is, and at all relevant times, was an individual domiciled in the State of
14 California and a citizen of the State of California. PLAINTIFF is employed by DEFENDANTS in
15 the State of California as a non-exempt employee.

16 3. PLAINTIFF worked for DEFENDANTS in Los Angeles County as a non-exempt
17 lead, team lead, ambassador, senior ambassador and/or similar title(s) from in or around late
18 September 2021 through the present.

19 4. DEFENDANTS are a Delaware limited liability company that, at all relevant times,
20 were authorized to do business within the State of California and are doing business in the State of
21 California.

22 5. DEFENDANTS own, operate, or otherwise manage a technology company that owns
23 and operates CLEAR, a biometric secure identity platform that stores individuals' personal
24 information and links it to biometric data, allowing them to bypass security checkpoints by using
25 fingerprint and/or iris identification.¹ Per DEFENDANTS' website, DEFENDANTS offer
26 “CLEAR Lanes” to its CLEAR customers/membership holders to [g]et where you’re going faster
27 through one of our hundreds of [CLEAR] Lanes nationwide.” DEFENDANTS tout itself as
28

¹ See <https://www.crunchbase.com/organization/alclear-llc> (Last visited on February 15, 2023).

1 providing “Stress-Free Airport Security Nationwide” and claims its CLEAR airport membership
2 and/or “CLEAR Plus” membership helps its customers “get through security faster.”²
3 DEFENDANTS operate their business primarily out of airports, stadiums, among other venues
4 nationwide, with multiple locations throughout California, including but not limited to, locations,
5 offices and/or facilities located in Long Beach, Palm Springs, Ontario, San Diego, San Jose,
6 Oakland, Sacramento, at least three (3) locations, offices and/or facilities located in San Francisco,
7 and at least three (3) locations, offices and/or facilities located in Los Angeles, including but not
8 limited to, those operating out of BMO Stadium, SoFi Stadium and out of Los Angeles International
9 Airport (LAX), where DEFENDANTS assigned PLAINTIFF to work during the Class Period.³

10 6. The true names and capacities of the DOE Defendants sued herein as DOES 1
11 through 100, inclusive, are currently unknown to PLAINTIFF, who therefore sues each such
12 Defendant by said fictitious names. Each of the Defendants designated herein as a DOE is legally
13 responsible for the unlawful acts alleged herein. PLAINTIFF will seek leave of Court to amend this
14 Complaint to reflect the true names and capacities of the Doe Defendants when such identities
15 become known.

16 7. PLAINTIFF is further informed and believes that, at all relevant times, each
17 Defendant was the principal, agent, partner, joint venturer, joint employer, officer, director,
18 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or
19 predecessor in interest of some or all of the other Defendants, and was engaged with some or all of
20 the other defendants in a joint enterprise for profit, and bore such other relationships to some or all
21 of the other Defendants so as to be liable for their conduct with respect to the matters alleged in this
22 complaint. PLAINTIFF is further informed and believes and thereon alleges that each Defendant
23 acted pursuant to and within the scope of the relationships alleged above, and that at all relevant
24 times, each Defendant knew or should have known about, authorized, ratified, adopted, approved,
25 controlled, aided and abetted the conduct of all other Defendants.

26 **JOINT LIABILITY**

27
28 ² See <https://www.clearme.com/how-it-works> (Last visited on February 16, 2023).

³ See <https://www.clearme.com/where-we-are> (Last visited on February 15, 2023).

1 8. Under California law, the definition of the terms “to employ” are broadly construed
2 under the applicable IWC Wage Order(s) to have three alternative definitions, including: (1) to
3 exercise control over the wages, hours or working conditions; (2) to suffer of permit to work; or (3)
4 to engage, thereby creating a common law employment relationship. See, *Martinez v. Combs*, 49
5 Cal.4th 35, 64 (2010). One reason that the IWC defined “employer” in terms of exercising control
6 was to reach situations in which multiple entities control different aspects of the employment
7 relationship. Supervision of the work, in the specific sense of exercising control over how services
8 are properly performed, is properly viewed as one of the “working conditions” mentioned in the
9 wage order. *Id.* at 76. A joint employer relationship exists, for example, when one entity (such as a
10 temporary employment agency) hires and pays a worker, and the other entity supervises the work.
11 *Id.* Moreover, the California Court of Appeal recently broadened the test for joint employment in
12 California, applying a less stringent standard to what constitutes sufficient control by a business
13 over its vendor’s employees’ wages and working conditions to render that business liable as a joint
14 employer. See, *Medina v. Equilon Enterprises, LLC*, 68 Cal. App. 5th 868 (2021); “[i]f the putative
15 joint employer instead exercises enough control over the intermediary entity to *indirectly* dictate the
16 wages, hours, or working conditions of the employee, that is a sufficient showing of joint
17 employment,” *Id.* at 875 [emphasis added].

18 9. During PLAINTIFF’s employment by DEFENDANTS, PLAINTIFF and the Class
19 Members (defined below) were jointly employed by DEFENDANTS for purposes of the Wage
20 Orders, under the alternative definitions of “to employ” adopted by the California Supreme Court
21 in *Martinez*, supra. As discussed below, these DEFENDANTS (1) exercised control over wages,
22 hours and working conditions of PLAINTIFF and the Class Members; (2) suffered or permitted
23 PLAINTIFF and Class Members to work for them; and (3) engaged PLAINTIFF and Class
24 Members to work for them.

25 10. PLAINTIFF is informed and believes, and thereon alleges that at all relevant times
26 DEFENDANTS operated as a single integrated enterprise with common ownership and centralized
27 human resources. As a result, DEFENDANTS utilized the same unlawful policies and practices
28 across all of their locations/facilities and subjected all of the Class Members to these same policies

1 and practices regardless of the location(s) where they worked. Among other things, PLAINTIFF is
2 informed and believes that: (1) there is common ownership in, and financial control, in
3 DEFENDANTS' companies, (2) DEFENDANTS utilize common management, who have control
4 over the day-to-day operations and employment matters, including the power to hire and fire, set
5 schedules, issue employee policies, and determine rates of compensation across its locations in
6 California; (3) DEFENDANTS utilize the same policies and procedures for all California
7 employees, including issuing the same employee handbooks and other form agreements; (4)
8 DEFENDANTS use at least some of the same Human Resources personnel and attorneys to oversee
9 employment matters; and, (6) DEFENDANTS share employees.

10 11. PLAINTIFF is informed and believes, and thereon alleges that at all times relevant
11 to this Complaint, DEFENDANTS were the joint employers of PLAINTIFF and the Class Members
12 upon whose behalf PLAINTIFF brings these allegations and causes of action, in that
13 DEFENDANTS, exercised sufficient control over PLAINTIFF and the Class Members' wages,
14 hours and working conditions, and/or suffered or permitted PLAINTIFF and the Class Members to
15 work so as to be considered the joint employers of PLAINTIFF and the Class Members.

16 12. Upon information and belief, PLAINTIFF alleges that DEFENDANTS created a
17 uniform set of policies, practices and/or procedures concerning, inter alia, hourly and overtime pay,
18 time-keeping practices, meal and rest periods, reimbursement of business expenses and other
19 working conditions that were distributed to, and/or applied to PLAINTIFF and the Class Members,
20 and further that DEFENDANTS uniformly compensated and controlled the wages of PLAINTIFF
21 and the Class Members in a uniform manner. DEFENDANTS collectively represented to
22 PLAINTIFF and the Class Members that each was an "at-will" employee of DEFENDANTS, and
23 that DEFENDANTS collectively retained the right to terminate PLAINTIFF's and Class Members'
24 employment with or without cause. Upon information and belief, DEFENDANTS further
25 collectively represented to PLAINTIFF and Class Members in writing the details of their
26 compensation, and the manner in which they were to take meal and rest periods, the procedures
27 required by DEFENDANTS collectively for recordation of hours worked and the policies applicable
28 to PLAINTIFF and Class Members by which DEFENDANTS collectively would evaluate the wage

1 rates of PLAINTIFF and Class Members.

2 13. Thus, DEFENDANTS collectively exercised the right to control the wages, hours
3 and working conditions of PLAINTIFF and Class Members. As such, DEFENDANTS collectively
4 held the right to control virtually every aspect of PLAINTIFF's and the Class Members'
5 employment, including the instrumentality that resulted in the illegal conduct for which PLAINTIFF
6 seeks relief in this Complaint.

7 14. PLAINTIFF is informed and believes that DEFENDANTS exercised the same
8 control over, applied the same policies and practices, and engaged in the same acts and omissions
9 with regard to the other Class Members.

10 **CLASS ALLEGATIONS**

11 15. PLAINTIFF brings this action on behalf of PLAINTIFF, and all others similarly
12 situated as a class action pursuant to Code of Civil Procedure section 382. The class PLAINTIFF
13 seeks to represent are defined as follows and referred to as the "Class" or "Class Members":

14 All current and former non-exempt employees that worked either
15 directly or via a staffing agency for any of the DEFENDANTS at any
16 location in California at any time within the four years prior to the
17 filing of the initial Complaint ("Class Period").

18 a. Numerosity. While the exact number of Class Members is unknown to
19 PLAINTIFF at this time, the Class is so numerous that the individual joinder of
20 all members is impractical under the circumstances of this case. PLAINTIFF is
21 informed and believes the Class consists of at least 100 individuals.

22 b. Common Questions of Law and Fact. This lawsuit is suitable for class treatment
23 because common questions of law and fact predominate over individual issues.
24 Common questions include, but are not limited to, the following: (1) whether
25 DEFENDANTS understated hours worked and failed to pay all amounts due to
26 PLAINTIFF and the Class Members for wages earned, including minimum and
27 overtime wages, under California law; (2) whether DEFENDANTS provided
28 PLAINTIFF and the Class Members with all meal periods or premium payments

1 in lieu thereof in compliance with California law; (3) whether DEFENDANTS
2 provided PLAINTIFF and the Class Members with all rest periods or premium
3 payments in lieu thereof, in compliance with California law; (4) whether
4 DEFENDANTS provided PLAINTIFF and Class Members with accurate,
5 itemized wage statements in compliance with California law, displaying,
6 including but not limited to, the total hours worked during the pay period; (5)
7 whether DEFENDANTS failed to reimburse PLAINTIFF and the Class
8 Members for all business expenses; and (6) whether DEFENDANTS violated
9 California Business and Professions Code sections 17200, *et seq.*

- 10 c. Ascertainable Class. The proposed Class is ascertainable as members can be
11 identified and located using information in DEFENDANTS' business, payroll
12 and personnel records.
- 13 d. Typicality. PLAINTIFF's claims are typical of the claims of the Class Members.
14 PLAINTIFF suffered a similar injury as members of the Class as a result of
15 DEFENDANTS' common practices regarding, *inter-alia*, failure to calculate
16 and pay all owed minimum and overtime wages, failure to provide proper meal
17 periods and rest periods or premium compensation in lieu thereof, failure to
18 provide accurate wage statements, and failure to reimburse business expenses.
- 19 e. Adequacy. PLAINTIFF will fairly and adequately protect the interests of the
20 Class Members. PLAINTIFF has no interests adverse to the interests of the other
21 Class Members. Counsel who represent PLAINTIFF are competent and
22 experienced in litigating similar class action cases and are California lawyers in
23 good standing. Counsel for PLAINTIFF have the experience and resources to
24 vigorously prosecute this case.
- 25 f. Superiority. A class action is superior to other available means for the fair and
26 efficient adjudication of this controversy since individual joinder of all members
27 of the class is impractical. Class action treatment will permit a large number of
28 similarly situated persons to prosecute their common claims in a single forum

1 simultaneously, efficiently, and without the unnecessary duplication of effort.
2 and expense that numerous individual actions would engender. Furthermore, as
3 the damages suffered by each individual member of the Class may be relatively
4 small, the expenses and burden of individual litigation would make it difficult
5 or impossible for individual members of the Class to redress the wrongs done to
6 them, while an important public interest will be served by addressing the matter
7 as a class action. The cost to the court system of adjudication of such
8 individualized litigation would be substantial. Individualized litigation would
9 also present the potential for inconsistent or contradictory judgments. Finally,
10 the alternative of filing a claim with the California Labor Commissioner is not
11 superior, given the lack of discovery in such proceedings, the fact that there are
12 fewer available remedies, and the losing party has the right to a trial de novo in
13 the Superior Court.

14 **FACTUAL AND LEGAL ALLEGATIONS**

15 16. During the relevant period, PLAINTIFF, and each of the Class Members worked for
16 DEFENDANTS in the State of California. At all times referenced herein, DEFENDANTS exercised
17 control over PLAINTIFF and Class Members, and suffered and/or permitted them to work.

18 17. PLAINTIFF is employed by DEFENDANTS as a non-exempt employee.
19 PLAINTIFF worked for DEFENDANTS at LAX as a non-exempt lead, team lead, ambassador,
20 senior ambassador and/or similar title(s) from in or around late September 2021 through the present.
21 PLAINTIFF regularly worked at least eight (8) hours per day, at least five (5) days per week.

22 18. At all relevant times, PLAINTIFF was a non-exempt employee that was paid on an
23 hourly basis for time counted by DEFENDANTS as hours worked. PLAINTIFF was also
24 compensated with commissions, bonuses and/or other non-discretionary compensation. For
25 example, PLAINTIFF was compensated with commissions and/or non-discretionary bonuses for
26 completing CLEAR membership enrollments and/or sales.

27 19. **Unpaid Minimum and Overtime Wages.** DEFENDANTS failed to compensate
28 PLAINTIFF and Class Members for all hours worked, resulting in the underpayment of minimum

1 and overtime wages. DEFENDANTS failed to compensate PLAINTIFF and Class Members for all
2 hours worked by virtue of, DEFENDANTS' automatic deduction and time rounding policies, and
3 failure to relieve employees of all duties/employer control during unpaid meal periods or otherwise
4 unlawful practices for missed or improper meal periods, as explained below.

5 20. Based on information and belief, DEFENDANTS implemented a policy and/or
6 practice of rounding meal period start and end times and/or automatically deducting at least thirty
7 minutes per shift for meal periods, despite having actual and/or constructive knowledge that
8 PLAINTIFF and other Class Members were subject to DEFENDANTS' control during purported
9 meal periods and/or were otherwise not afforded lawful meal periods, depriving PLAINTIFF and
10 Class Members of all wages owed.

11 21. Based on information and belief, Class Members were not paid for all hours worked
12 due to DEFENDANTS' policy and/or practice of rounding time entries or paying according to
13 scheduled hours worked instead of actual time worked, and/or mandated off-the clock work policies
14 and/or practices.

15 22. For example, based on information and belief, DEFENDANTS failed to compensate
16 Class Members for time spent performing pre-shift and/or post-shift off-the-clock work such as, but
17 not limited to, time spent undergoing required pre-clock-in employer-mandated security screenings
18 and/or temperature screenings and/or time spent bestowing personal items in employee
19 lockers/storage area. This pre-shift off-the-clock work was neither recorded nor compensated,
20 resulting in the consistent underpayment of wages owed to Class Members.

21 23. Moreover, based on information and belief, at times, DEFENDANTS' electronic
22 employee time-keeping system / app malfunctioned such that PLAINTIFF and other Class Members
23 were required to either reinitiate and/or otherwise troubleshoot the system / app prior to being able
24 to clock in and/or were unable to clock in at all for the start of their shifts, resulting in off-the-clock
25 work and the underpayment of wages owed to Class Members. Based on information and belief,
26 Class Members experienced the same issues when clocking out for shifts. This time spent under
27 DEFENDANTS' control was not recorded and not compensated and resulted in unpaid minimum
28 wages owed to Class Members.

1 24. PLAINTIFF and other Class Members were required to complete other off-the-clock
2 work tasks before clocking in for the beginning of their shifts and/or after clocking out for the end
3 of their shifts and/or during uncompensated meal periods, resulting in the underpayment of
4 minimum and overtime wages owed to PLAINTIFF and other Class Members.

5 25. For example, based on information and belief, Class Members were also required to
6 complete off-the-clock work outside of scheduled shifts and/or during unpaid meal periods due to
7 work-related phone calls and/or messages they received to their phones/mobile devices and were
8 required to respond to, including but not limited to, communications from supervisors and/or other
9 Class Members regarding scheduling and/or other work tasks, resulting in the underpayment of
10 wages owed to Class Members.

11 26. Based on information and belief, DEFENDANTS failed to pay Class Members for
12 time they were required to spend completing orientation, policy questionnaires, and/or time spent
13 completing the onboarding process and/or trainings including but not limited to reviewing various
14 documents and policies provided by DEFENDANTS. Based on information and belief, this work time
15 was completed off-the-clock and was not compensated.

16 27. Based on information and belief, at times, DEFENDANTS instituted a commission-
17 based compensation scheme that resulted in pay periods during which Class Members were denied
18 the minimum wage for all hours worked. For example, on information and belief, at times,
19 DEFENDANTS paid Class Members on a strictly commission basis (e.g., per CLEAR membership
20 enrollment and/or sale), at least during some pay periods, during the relevant time period. However,
21 based on information and belief, DEFENDANTS failed to separately compensate Class Members
22 for all non-commission rate related activities/all non-productive time, including but not limited to,
23 all rest breaks and/or time spent preparing/setting up for sales, time spent completing paperwork,
24 waiting time between sales and tasks and/or other waiting time, and/or time spent performing other
25 work duties that otherwise fall outside of the commission-based compensation criteria.
26 DEFENDANTS' failure to separately compensate Class Members for their rest periods and/or other
27 non-productive time and/or failure to compensate them at the correct rates for all non-productive
28 time and/or rest periods resulted in the failure to pay Class Members for all hours worked and

1 violations of California wage and hour laws, including but not limited to, Labor Code sections 226.2
2 and/or 1197. Based on information and belief, DEFENDANTS further failed to include this
3 information on these employees' wage statements required by Labor Code section 226.2. Based on
4 further information and belief, DEFENDANTS implemented a time-rounding system that as applied
5 systematically deprived PLAINTIFF and other Class Members of compensable time because the
6 time-rounding system implemented by DEFENDANTS would almost always, if not always, result
7 in understating actual compensable work time.

8 28. Moreover, by charging PLAINTIFF and other Class Members with fees for parking
9 their vehicles at work DEFENDANTS deprived PLAINTIFF and other Class Members of all owed
10 minimum wages for all hours worked. For example, based on information and belief, at times
11 DEFENDANTS deducted fees and/or costs from Class Members' paychecks, thereby depriving
12 Class Members of all owed wages. For example, DEFENDANTS required PLAINTIFF and other
13 Class Members to park in the South parking lot at LAX. Class Members were/are then charged
14 \$10.00 for the use of this parking lot.

15 29. Based on further information and belief, DEFENDANTS implemented a time-
16 rounding system that as applied systematically deprived PLAINTIFF and other Class Members of
17 compensable time because the time-rounding system implemented by DEFENDANTS would
18 almost always, if not always, result in understating actual compensable work time. For example,
19 wage statements issued by DEFENDANTS evidence rounding to at least the nearest quarter, half
20 and/or whole hour. For instance, DEFENDANTS' issued wage statement for PLAINTIFF for pay
21 period beginning on 10/17/22 and ending 10/23/22 shows exactly 40.000 regular hours worked;
22 DEFENDANTS' issued wage statement for PLAINTIFF for pay period beginning on 10/24/22 and
23 ending 10/30/22 also shows exactly 40.000 regular hours worked. Similarly, DEFENDANTS'
24 issued wage statement for pay period beginning on 10/31/22 and ending on 11/6/22 shows exactly
25 40.000 regular hours worked, and DEFENDANTS' issued wage statement for pay period beginning
26 on 11/7/22 and ending on 11/13/22 also shows exactly 40.000 regular hours worked. Based on
27 information and belief, DEFENDANTS rounded to at least the nearest quarter, half and/or whole
28 hour, PLAINTIFF and other Class Members' total hours worked during most if not all pay periods,

1 resulting in the consistent underpayment of wages owed to PLAINTIFF and other Class Members.

2 30. DEFENDANTS' failure to pay for all time worked by virtue of its time rounding,
3 auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal
4 periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of
5 minimum wages owed to PLAINTIFF and Class Members as well as unpaid overtime wages for
6 those Class Members who worked more than eight (8) hours in a day and/or more than forty (40)
7 hours in a week.

8 31. Based on information and belief, DEFENDANTS had actual and/or constructive
9 knowledge that its time rounding policies/practices, auto-deduction policies and practices,
10 commission-based compensation scheme, failure to provide lawful meal periods (as described
11 below) and/or other off-the-clock work resulted in the underpayment of minimum wages owed to
12 PLAINTIFF and other Class Members, in violation of California's minimum and overtime wage
13 laws.

14 32. Based on information and belief, DEFENDANTS failed and continue to fail to pay
15 Class Members two times their regular rate of pay for time worked beyond twelve (12) hours per
16 workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in a
17 work week, in violation of California's overtime laws.

18 33. Based on information and belief, DEFENDANTS failed to incorporate all non-
19 discretionary remuneration, including but not limited to, shift differential pay, commission pay,
20 bonus/incentive pay, and/or other non-discretionary pay into the regular rate of pay used to calculate
21 the owed overtime rate(s), resulting in the miscalculation and underpayment of overtime wages
22 owed to PLAINTIFF and other Class Members. For example, PLAINTIFF was often compensated
23 with commissions and/or bonuses (e.g., for completing CLEAR Membership enrollments and/or
24 sales) and/or other non-discretionary pay during periods in which she worked overtime, however,
25 DEFENDANTS failed to incorporate all commissions, bonuses and/or other non-discretionary pay
26 into the regular rate for purposes of calculating the owed overtime rate, resulting in the
27 miscalculation and underpayment of overtime wages owed to PLAINTIFF.

28 34. **Meal Period Violations.** PLAINTIFF and other Class Members consistently worked

1 shifts of at least five and one-half hours or more, entitling them to at least one meal period. However,
2 PLAINTIFF and other Class Members would not receive legally compliant thirty (30) minute first
3 and second meal periods. Based on information and belief, Class Members were consistently unable
4 to take timely, off duty, thirty-minute, uninterrupted meal periods, often being forced to take late
5 meal periods, interrupted meal periods, and/or work through part or all their meal periods due to
6 understaffing, the nature and constraints of their job duties and/or commentary from supervisors
7 pressuring them to take non-compliant meal periods or skip meal periods completely.

8 35. Based on information and belief, other Class Members were consistently suffered
9 and permitted to take meal periods past the fifth hour of work and/or had their meal periods
10 interrupted, cut short, restricted to DEFENDANTS' premises and/or otherwise on duty due to
11 commentary from supervisors, understaffing, the nature and constraints of their job duties, and/or
12 the need to meet DEFENDANTS' goals and expectations. For example, based on information and
13 belief, at times, PLAINTIFF's and other Class Members' meal periods were cut short, interrupted
14 and/or worked through completely due to the need to attend to customers/travelers, finish setting up
15 memberships, complete membership enrollments/sales, monitor security lines, provide coverage at
16 the various airline gates, respond to work-related communications and/or complete other work tasks.
17 Other times, PLAINTIFF was forced to take his meal period late (i.e., after working more than five
18 hours) at least several times per week due to understaffing and/or lack of coverage, often having to
19 work at least seven (7) hours before he could take any version of a meal period. PLAINTIFF was
20 not paid meal period premiums for these missed, interrupted, late and/or otherwise legally
21 noncompliant meal periods. Based on information and belief, other Class Members were also
22 regularly required to work through their meal periods, had their meal periods cut short and/or
23 interrupted and/or were forced to take their meal periods late due to the need to attend to
24 customers/travelers, finish setting up memberships, complete membership enrollments/sales,
25 monitor security lines, provide coverage at the various airline gates, respond to work-related
26 communications and/or complete other work tasks.

27 36. Based on information and belief, DEFENDANTS implemented policies and/or
28 practices that failed to relieve Class Members of all duties and DEFENDANTS' control during

1 unpaid meal periods.

2 37. Based on information and belief, DEFENDANTS required Class Members to
3 complete off-the-clock work prior to their scheduled shift time which DEFENDANTS failed to take
4 into account when scheduling meal periods for Class Members. Based on information and belief,
5 meal periods were late, in part due to unaccounted pre-shift off-the-clock work.

6 38. Based on information and belief, despite DEFENDANTS' failure to provide lawful
7 meal periods, DEFENDANTS implemented a policy and/or practice of rounding the start and end
8 times of PLAINTIFF's and other Class Members' meal periods and/or automatically deducting at
9 least thirty minutes per shift for missed and/or otherwise unlawful meal periods despite having
10 actual and/or constructive knowledge that PLAINTIFF and other Class Members did not receive
11 lawful meal periods.

12 39. Moreover, per DEFENDANTS' uniform policy and practice, Class Members who
13 worked shifts of more than ten hours did not receive a second legally compliant thirty (30) minute
14 second meal period.

15 40. Based on information and belief, DEFENDANTS failed to instruct PLAINTIFF and
16 other Class Members as to the timing and duty-free nature of meal periods. Based on further
17 information and belief, DEFENDANTS did not have a compliant written meal period policy, nor
18 did DEFENDANTS have any sort of compliant policy in practice.

19 41. Moreover, based on information and belief, DEFENDANTS failed to keep accurate
20 records of the true start and end times of PLAINTIFF's and Class Members' meal periods. Based
21 on information and belief, to the extent meal period were recorded, DEFENDANTS illegally
22 rounded the start and end times of purported meal periods resulting in PLAINTIFF and other Class
23 Members not being paid for all time worked as well as late and/or shortened meal periods. *See*
24 *Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

25 42. Based on information and belief, DEFENDANTS had actual and/or constructive
26 knowledge that its policies and practices resulted in the denial of uninterrupted meal periods which
27 were free of DEFENDANTS' control owed to PLAINTIFF and other Class Members, in violation
28 of California's meal period laws.

1 43. DEFENDANTS failed to pay PLAINTIFF and other Class Members, an additional
2 hour of wages at their respective regular rates of compensation for each workday a lawful meal
3 period was not provided. DEFENDANTS either failed to pay a meal period premium at all for each
4 workday a lawful meal period was not provided and/or failed to pay the proper meal period premium
5 for failure to incorporate all non-discretionary remuneration, including but not limited to,
6 bonuses/incentive pay, commissions/piece-rate pay, shift differential pay and/or other non-
7 discretionary compensation into the regular rate or compensation for purposes of calculating the
8 owed meal period premium.

9 44. **Rest Period Violations.** DEFENDANTS did not properly authorize and provide
10 PLAINTIFF and other Class Members with legally compliant rest periods at a rate of every four (4)
11 hours worked or major fraction thereof, that insofar as practicable, are provided in the middle of the
12 work period, as required by law.

13 45. PLAINTIFF and other Class Members were not adequately informed, authorized,
14 instructed about, nor permitted an opportunity to take proper rest periods per California law. Based
15 on information and belief, DEFENDANTS had no policy in place nor instruction as to the taking of
16 duty-free rest periods.

17 46. Based on information and belief, DEFENDANTS did not have a have a compliant
18 written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in
19 practice. For example, PLAINTIFF typically did not receive any rest periods during his shifts due
20 to understaffing and/or lack of coverage and the need to attend to customers/travelers, finish setting
21 up memberships, complete membership enrollments/sales, monitor security lines, provide coverage
22 at the various airline gates, respond to work-related communications and/or complete other work
23 tasks.

24 47. Based on information and belief, Class Members' rest periods were interrupted, cut
25 short, on duty, restricted to work premises and/or late due to understaffing, the nature and constraints
26 of their job duties, and/or due to commentary from supervisors/managers pressuring them to skip
27 rest periods completely or otherwise take non-compliant rest periods.

28 48. Moreover, DEFENDANTS failed to provide any form of a third rest period on shifts

1 lasting longer than ten hours.

2 49. Based on information and belief, DEFENDANTS implemented policies and/or
3 practices that failed to relieve PLAINTIFF and other Class Members of all duties and
4 DEFENDANTS' control during rest periods.

5 50. Based on information and belief, Class Members were pressured to complete their
6 work duties according to a designated schedule such that rest periods were only taken once tasks
7 were completed, and/or as time permitted.

8 51. Furthermore, DEFENDANTS failed to pay a rest period premium for each day in
9 which PLAINTIFF and Class Members experienced a missed/unlawful rest period in violation of
10 California law. DEFENDANTS either failed to pay a rest period premium at all for each workday a
11 proper rest period was not provided and/or failed to pay the proper rest period premium for failure
12 to incorporate all non-discretionary remuneration, including but not limited to, bonuses/incentive
13 pay, commissions/piece-rate pay, shift differential pay, and/or other non-discretionary
14 compensation into the regular rate of compensation for purposes of calculating the owed rest period
15 premium.

16 52. **Inaccurate Wage Statements.** During the relevant period, DEFENDANTS failed to
17 provide PLAINTIFF and other Class Members with accurate wage statements that complied with
18 Labor Code section 226. As DEFENDANTS failed to provide PLAINTIFF and Class Members with
19 meal and rest periods that complied with Labor section 226.7, the wage statements DEFENDANTS
20 issued to PLAINTIFF and Class Members failed and continue to fail to correctly set forth the gross
21 wages earned, the total hours worked, the net wages earned, and all applicable hourly rates in effect
22 during the pay period and the corresponding number of hours worked at each hourly rate by the
23 employee.

24 53. DEFENDANTS issued wage statements to PLAINTIFF and Class Members that also
25 failed to indicate the earned gross and net wages earned during the pay period, the correct applicable
26 rates of pay for all hours worked, and the total hours worked by PLAINTIFF and Class Members
27 (by virtue of rounded time entries, automatic deduction for meal periods/failure to relieve Class
28 Members of all duties and employer control during unpaid meal periods, payment according to

1 scheduled hours worked rather than actual hours worked, and/or other off-the-clock work policies
2 and practices) which results in a violation of Labor Code section 226(a).

3 54. Based on information and belief, wage statements issued by DEFENDANTS to
4 PLAINTIFF and other Class Members failed to list all applicable hourly rates in effect during the
5 pay period and the corresponding number of hours worked at each hourly rate by the employee, in
6 violation of Labor Code section 226(a)(9). For example, PLAINTIFF received wage statements that
7 listed the amounts of overtime/premium wages earned but did not include a corresponding number
8 of hours for the premium payment.

9 55. Also, wage statements issued by DEFENDANTS fail to list the inclusive dates of the
10 pay period for which the Class Member is being paid. For example, DEFENDANTS' wage
11 statement for PLAINTIFF dated 4/22/22 lists several separate overtime earnings line items,
12 including but not limited to, multiple "OT Lookback" categories ("OT Lookback Std," "OT
13 Lookback Fam," "OT Lookback Fire," and OT Lookback Ptr) without listing the inclusive dates of
14 the accurate pay period for those "OT Lookback" earnings, further failing to list the total hours
15 worked for the pay period, including but not limited to, the total hours worked for the pay period
16 the OT Lookback earnings correspond with. As such, DEFENDANTS issued wage statements to
17 Class Members that were inaccurate and did not include all statutorily required information,
18 including but not limited to, the inclusive dates of the pay period for which the employee is being
19 paid, the total hours worked, all applicable hourly rates in effect during the pay period and the
20 corresponding number of hours worked at each hourly rate by the employee.

21 56. As described herein, based on information and belief, DEFENDANTS also failed to
22 incorporate all forms of non-discretionary compensation earned during the pay period into the
23 overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each hour
24 of overtime worked by PLAINTIFF and other Class Members. For example, DEFENDANTS' wage
25 statements for PLAINTIFF provide an inaccurate overtime rate because the wage statements list an
26 overtime rate that is one- and one-half times PLAINTIFF's base rate of pay rather than one- and
27 one-half times PLAINTIFF's regular rate of pay. As such, DEFENDANTS' issued wage statements
28 fail to display the proper overtime rate(s) for each hour of overtime worked by Class Members.

1 57. Moreover, based on information and belief, DEFENDANTS issued wage statements
2 to PLAINTIFF and Class Members that further violate Labor Code section 226(a), by among other
3 things, failing to list the correct name and/or address of the legal entity that is the employer.

4 58. As a result, DEFENDANTS issued wage statements to PLAINTIFF and Class
5 Members that were not accurate and did not include all of the statutorily required information. As
6 such, DEFENDANTS violated Labor Code section 226.

7 59. **Unreimbursed Business Expenses.** Based on information and belief,
8 DEFENDANTS required PLAINTIFF and Class Members to incur business expenses as a direct
9 consequence of the performance of their job duties without providing reimbursement, in violation
10 of Labor Code section 2802. Based on information and belief, PLAINTIFF and Class Members
11 were improperly required to provide and maintain work tools that are supposed to be the
12 responsibility of the employer.

13 60. Based on information and belief, DEFENDANTS shifted the costs of doing business
14 onto Class Members by requiring them to pay for business expenses, including but not limited to,
15 uniforms/work clothing/shoes and/or protective/safety gear, the use of Class Members' personal
16 vehicles, and the use of Class Members' personal mobile phone and data usage for work related
17 purposes to receive and respond to work related messages and/or phone calls. For example, based
18 on information and belief, Class Members received messages and/or phone calls to their personal
19 phones from supervisors and/or other Class Members regarding scheduling and/or other work tasks
20 but were not reimbursed/reimbursed in full by DEFENDANTS for the business use of their personal
21 cell phones/mobile devices.

22 61. Moreover, PLAINTIFF and other Class Members were required to pay for parking
23 at work without receiving any and/or full reimbursement for the expenses they incurred in
24 connection therewith. For example, DEFENDANTS required PLAINTIFF and other Class
25 Members to park in the South parking lot when working their shifts at LAX. Class Members were
26 then charged \$10.00 for the use of this parking lot. DEFENDANTS did not provide
27 reimbursement/full reimbursement to Class Members for these business expenses.

28 62. Based on further information and belief, DEFENDANTS required Class Members to

1 use their personal vehicles for work, including but not limited to, for driving between and/or around
2 DEFENDANTS' various locations/facilities without reimbursing them for the personal vehicle
3 and/or other travel expenses they incurred in connection therewith, including but not limited to, gas,
4 vehicle wear and tear, and mileage. As such, DEFENDANTS failed to compensate Class Members
5 at the Internal Revenue Service (IRS) mandated per mile compensation rate for the relevant period.

6 63. Based on further information and belief, DEFENDANTS failed to provide
7 reimbursement / full reimbursement for expenses Class Members incurred as a result of working for
8 DEFENDANTS remotely and/or from their homes, including but not limited to, cost of internet
9 service, home electricity, cost of additional memory and/or virus software for home computer /
10 home computer use, among other business expenses associated with remote work as required by
11 EMPLOYER. For example, based on information and belief, at times, DEFENDANTS required
12 Class Members to review policy documents and/or training documents and/or perform other remote
13 work on their computers/devices but did not provide any and/or full reimbursement to Class
14 Members for costs associated with being required to use their personal computers/devices and
15 electricity for DEFENDANTS' business purposes.

16 64. Based on information and belief, DEFENDANTS required Class Members to pay
17 for the purchase and/or maintenance of uniforms/work clothing and/or work shoes without
18 providing any and/or full reimbursement for these business expenses. For example, based on
19 information and belief, Class Members were required to purchase shirts, pants, and/or shoes, among
20 other work clothing/gear in a specific color, of a specific type and/or particular brand without
21 receiving any and/or full reimbursement from DEFENDANTS.

22 65. Based on information and belief, DEFENDANTS regularly failed to reimburse and
23 indemnify Class Members for business expenses. Pursuant to California Labor Code section 2802,
24 PLAINTIFF and Class Members were entitled to be reimbursed for all reasonable expenses
25 associated with carrying out DEFENDANTS' orders and/or carrying out the duties assigned by
26 DEFENDANTS.

27 66. DEFENDANTS' failure to provide Class Members with full reimbursement for all
28 reasonable expenses associated with carrying out their duties required that Class Members

1 subsidize and/or carry the burden of business expenses in violation of Labor Code section 2802.

2 67. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS
3 engaged in these same herein described unlawful practices and that DEFENDANTS applied these
4 same herein described unlawful practices to all of its employees that it applied to PLAINTIFF.

5 **FIRST CAUSE OF ACTION**

6 **Recovery of Unpaid Minimum Wages and Liquidated Damages**
7 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

8 68. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

9 69. It is fundamental that an employer must pay its employees for all time worked.
10 California Labor Code sections 218 and 218.5 provide a right of action for nonpayment of wages.
11 Labor Code section 222 prohibits the withholding of part of a wage. Labor Code section 223
12 prohibits the pay of less than a statutory or contractual wage scale. Pursuant to California Labor
13 Code sections 1194 and 1197, and the Industrial Wage Commission ("IWC") Wage Orders, an
14 employer must pay its employees for all hours worked, up to 40 hours per week or 8 hours per day,
15 at a regular rate no less than the mandated minimum wage. Payment to an employee of less than
16 the applicable minimum wage for all hours worked in a payroll period is unlawful. Payment to an
17 employee of less than the applicable minimum wage for all hours worked in a payroll period is
18 unlawful. Labor Code section 224 only permits deductions from wages when the employer is
19 required or empowered to do so by state or federal law or when the deduction is expressly authorized
20 in writing by the employee for specified purposes that do not have the effect of reducing the agreed
21 upon wage.

22 70. DEFENDANTS violated the above-described law by failing to compensate
23 PLAINTIFF and the Class Members for all hours worked by virtue of, among other things,
24 DEFENDANTS' time rounding, automatic deduction for meal periods, off-the-clock/unpaid work
25 completed during meal periods, other pre-shift, post-shift and/or otherwise off-the-clock work,
26 and/or payment according to scheduled hours worked rather than actual hours worked (described
27 above), which resulted in the failure to account for all hours worked and thus the denial of minimum
28 wages.

71. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and

1 Class Members for all hours worked.

2 72. Based on information and belief, DEFENDANTS had actual or constructive
3 knowledge that its time-rounding policies and practices, auto-deduction policies and practices for
4 meal periods, failure to relieve employees of all duties and employer control during unpaid meal
5 periods, policy and practice of payment according to scheduled work time rather than actual work
6 time, and/or other mandated off-the-clock work resulted in the underpayment of minimum wages
7 owed to PLAINTIFF and other Class Members.

8 73. Pursuant to Labor Code sections 1194 and 1194.2, PLAINTIFF and the Class
9 Members are entitled to recover all unpaid minimum wages and liquidated damages thereon, plus
10 attorney's fees and costs, in an amount to be proved at trial.

11 **SECOND CAUSE OF ACTION**

12 **Recovery of Unpaid Overtime Wages**
13 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

14 74. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

15 75. Employees in California must be paid overtime, equal to one and one-half times the
16 employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including
17 12 hours in any workday, and for the first eight (8) hours worked on the seventh consecutive day of
18 work in a workweek, and they must be paid double the regular rate of pay for all hours worked in
19 excess of 12 hours in any workday and for all hours worked in excess of eight (8) on the seventh
20 consecutive day of work in a workweek, unless they are exempt.

21 76. PLAINTIFF and the Class Members worked overtime hours for which they were not
22 compensated by DEFENDANTS by virtue of, among other things, DEFENDANTS' time rounding,
23 automatic deduction for meal periods, off-the-clock/unpaid work completed during meal periods,
24 other pre-shift, post-shift and/or otherwise off-the-clock work, and/or payment according to
25 scheduled hours worked rather than actual hours worked (described above), which resulted in the
26 failure to account for all hours worked and thus the denial of all owed overtime wages.

27 77. Based on information and belief, DEFENDANTS failed to pay twice Class
28 Members' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for
time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in

1 violation of California's overtime laws.

2 78. Based on information and belief, DEFENDANTS further violated California's
3 overtime wage laws by failing to incorporate all non-discretionary compensation, including but not
4 limited to, non-discretionary bonus compensation, shift differentials, and/or other non-discretionary
5 compensation into the regular rate of pay used to calculate the overtime rate of pay. Failing to
6 include non-discretionary compensation into the regular rate of pay resulted in a miscalculation of
7 the overtime wage rate, resulting in the underpayment of overtime wages owed to PLAINTIFF and
8 other Class Members.

9 79. DEFENDANTS' conduct described above is in violation of California Labor Code
10 sections 510 and 1194 and all applicable Wage Orders.

11 80. PLAINTIFF and the Class Members are entitled to recover all unpaid overtime
12 wages, plus attorney's fees and costs, in an amount to be proved.

13 **THIRD CAUSE OF ACTION**

14 **Failure to Provide Meal Periods or Compensation in Lieu Thereof
(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

15 81. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

16 82. Pursuant to Labor Code section 512 and all applicable IWC Wage Orders,
17 DEFENDANTS were required to provide PLAINTIFF and the Class Members with one 30-minute
18 meal break free from all duties and employer control for all shifts longer than 5 hours, and a second
19 30-minute meal break free from all duties for all shifts longer than 10 hours. Meal periods can be
20 waived, but only under the following circumstances: (1) if an employee's total work period in a day
21 is over five (5) hours but no more than six (6) hours, the required meal period may be waived by
22 mutual consent of the employer and employee, and (2) if an employee's total work period in a day
23 is over ten (10) hours but no more than twelve (12) hours, the required second meal period may be
24 waived by mutual consent of the employer and employee, but only if the first meal period was not
25 waived. Employers covered by the Wage Orders have an obligation to both (1) relieve their
26 employees for at least one meal period for shifts over five hours (see above), and (2) to record having
27 done so.

28 83. Employers must pay employees an additional hour of wages at the employees'

1 regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted
2 meal period, first meal period provided after five (5) hours, second meal period provided after 10
3 hours). Lab. Code § 226.7.

4 84. As explained above, PLAINTIFF and other Class Members were consistently unable
5 to take timely, off duty, thirty-minute, uninterrupted first and second meal periods, often being
6 forced to take late meal periods, interrupted meal periods, and/or work through part or all of their
7 meal periods due to understaffing, the nature and constraints of their job duties, and/or commentary
8 from supervisors pressuring them to take non-compliant meal periods or skip meal periods
9 completely.

10 85. Based on information and belief, DEFENDANTS had and continue to have a policy
11 of rounding the start and end times of employees' meal periods and/or automatically deducting thirty
12 minutes per shift despite having actual and/or constructive knowledge that PLAINTIFF and Class
13 Members did not receive compliant meal periods.

14 86. Moreover, based on information and belief, Class Members did not receive a timely,
15 uninterrupted second meal period when working shifts over ten (10) hours in a workday.

16 87. PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS had
17 actual and/or constructive knowledge that its time-rounding and auto-deduction policies and
18 practices, other unlawful policies and practices resulted in the denial of compliant meal periods in
19 violation of California's meal period laws.

20 88. DEFENDANTS also failed to pay premiums for missed/otherwise unlawful meal
21 periods in violation of California law and/or failed to pay the proper meal period premium for failure
22 to incorporate all non-discretionary remuneration including but not limited to, bonuses/incentive
23 pay, commissions/piece-rate pay, shift differential pay and/or other non-discretionary compensation
24 into the regular rate or compensation for purposes of calculating the owed meal period premium.

25 89. As a result, under Labor Code section 226.7, PLAINTIFF and the Class Members
26 are entitled to one additional hour's pay at the employee's regular rate of compensation for each day
27 a meal period was missed, late, interrupted, or otherwise unlawful, plus attorneys' fees and costs,
28 all in an amount to be proved at trial.

FOURTH CAUSE OF ACTION

**Failure to Provide Rest Periods or Compensation in Lieu Thereof
(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

90. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

91. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period “insofar as practicable.” In *Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004 (2012), the California Supreme Court held that employees are entitled to a 10-minute paid rest period for shifts from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at 1029). The rest period requirement obligates employers to permit and authorize employees to take off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257.

92. If the employer fails to provide any required rest period, the employer must pay the employee one hour of pay at the employee’s regular rate of compensation for each workday the employer did not provide at least one legally required rest period, pursuant to Labor Code section 226.7.

93. PLAINTIFF and the Class Members did not receive legally compliant, timely 10-minute rest periods for every four (4) hours worked or major fraction thereof. As explained above, any purported rest periods were late, interrupted, cut short, on duty, and/or otherwise subject to DEFENDANTS’ control due to the nature and constraints of Class Members’ job duties, understaffing, and/or commentary from supervisors pressuring PLAINTIFF and Class Members to skip rest periods completely or otherwise take non-compliant rest periods.

94. Based on information and belief, DEFENDANTS implemented policies and/or practices that failed to relieve PLAINTIFF and other Class Members of all duties and employer control during rest periods. Based on further information and belief, Class Members were pressured to complete their work duties according to a designated schedule such that rest periods were only taken once tasks were completed, and/or as time permitted.

1 95. As a result, PLAINTIFF and Class Members did not receive legally compliant first,
2 second, or third rest periods as required by California law.

3 96. Moreover, based on information and belief, DEFENDANTS failed to pay a rest
4 period premium to PLAINTIFF and other Class Members for each workday in which there was a
5 missed or otherwise unlawful rest period. Based on further information and belief, when a rest
6 premium was paid, DEFENDANTS failed to include non-discretionary compensation including but
7 not limited to, bonuses/incentive pay, commissions/piece-rate pay, shift differential pay, and/or
8 other non-discretionary compensation into the regular rate of compensation for purposes of
9 determining the owed rest period premium.

10 97. DEFENDANTS are therefore liable to PLAINTIFF and the Class Members for one
11 hour of additional pay at the regular rate of compensation for each workday that a required rest
12 period was not provided, pursuant to California Labor Code section 226.7 and the applicable Wage
13 Order, plus pre-judgment interest, plus attorneys' fees and costs, all in an amount to be proved at
14 trial.

15 **FIFTH CAUSE OF ACTION**

16 **Failure to Furnish Accurate Itemized Wage Statements
(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

17 98. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

18 99. Pursuant to California Labor Code § 226, subdivision (a), PLAINTIFF and the Class
19 Members were entitled to receive, semimonthly or at the time of each payment of wages, an itemized
20 wage statement accurately stating the following:

21 (1) gross wages earned, (2) total hours worked by the employee,
22 except for any employee whose compensation is solely based on a
23 salary and who is exempt from payment of overtime under
24 subdivision (a) of Section 515 or any applicable order of the Industrial
25 Welfare Commission, (3) the number of piece-rate units earned and
26 any applicable piece rate if the employee is paid on a piece-rate basis,
27 (4) all deductions, provided that all deductions made on written orders
28 of the employee may be aggregated and shown as one item, (5) net
wages earned, (6) the inclusive dates of the period for which the
employee is paid, (7) the name of the employee and his or her social
security number, except that by January 1, 2008, only the last four
digits of his or her social security number or an employee
identification number other than a social security number may be
shown on the itemized statement, (8) the name and address of the
legal entity that is the employer, and (9) all applicable hourly rates in

effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

100. As DEFENDANTS failed to provide PLAINTIFF and other Class Members with meal and rest periods that complied with Labor Code section 226.7, the wage statements DEFENDANTS issued to PLAINTIFF and other Class Members failed and continue to fail to correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b) the total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net wages earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9).

101. Moreover, due to violations detailed above, including but not limited to, DEFENDANTS' failure to pay regular and overtime wages for all hours worked, failure to provide meal and rest break premiums, and failure to pay all sick leave wages at the proper rates, DEFENDANTS have violated California Labor Code § 226 by willfully failing to furnish PLAINTIFF and other Class Members with accurate, itemized wage statements that listed the gross and net wages earned and the correct applicable rates of pay for all hours worked. Based on information and belief, DEFENDANTS failed to incorporate all forms of non-discretionary compensation earned during the pay period into the regular rate of pay for purposes of calculating the owed overtime rate, and as such, failed to display the proper overtime rate(s) for each hour of overtime worked by PLAINTIFF and other Class Members.

102. As explained above, wage statements issued by DEFENDANTS failed to list the "total hours worked" by PLAINTIFF and Class Members (by virtue of rounded time entries, automatic deduction for meal periods/failure to relieve Class Members of all duties and employer control during unpaid meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or other off-the-clock work policies and practices all described in greater detail *supra*), which results in a violation of Labor Code section 226(a). Failure to list all hours worked on a wage statement, gives rise to an inference of injury under Labor Code Section 226 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

1 103. Based on information and belief, wage statements issued by DEFENDANTS to Class
2 Members failed to list all applicable hourly rates in effect during the pay period and the
3 corresponding number of hours worked at each hourly rate by the employee, in violation of Labor
4 Code section 226(a)(9).

5 104. Separately, and independent from the above allegations, DEFENDANTS issued
6 wage statements to PLAINTIFF and Class Members that violate Labor Code section 226(a)(8), by
7 failing to list the correct name and/or address of the legal entity that is the employer.

8 105. Based on information and belief, wage statements issued by DEFENDANTS failed
9 to list the inclusive dates of the pay period for which the Class Member is being paid.

10 106. DEFENDANTS' failure to accurately list all hours worked on all wage statements
11 caused confusion to PLAINTIFF and caused and continues to cause confusion to other Class
12 Members over whether they received all wages owed to them.

13 107. As a result, PLAINTIFF and other Class Members have suffered injury as they could
14 not easily determine whether they received all wages owed to them and whether they were paid for
15 all hours worked.

16 108. Moreover, as a result of DEFENDANTS' failure to list the correct name and/or
17 address of the legal entity that is the employer, PLAINTIFF and Class Members have suffered injury
18 as they could not contact their employer regarding any question(s) they had about wages paid.

19 109. DEFENDANTS' knowingly and intentionally failed to provide PLAINTIFF and
20 Class Members with accurate, itemized wage statements.

21 110. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and Class Members
22 have suffered injury. The absence of accurate information on their wage statements has prevented
23 earlier challenges to DEFENDANTS' unlawful pay practices, will require discovery and
24 mathematical computations to determine the amount of wages owed, and will cause difficulty and
25 expense in attempting to reconstruct time and pay records. DEFENDANTS' conduct led to the
26 submission of inaccurate information about wages and amounts deducted from wages to state and
27 federal government agencies. As a result, PLAINTIFF and Class Members are required to
28 participate in this lawsuit and create more difficulty and expense from having to reconstruct time

1 and pay records than if DEFENDANT had complied with its legal obligations.

2 111. Pursuant to California Labor Code section 226(e), PLAINTIFF and Class Members
3 are entitled to recover fifty dollars per employee for the initial pay period in which a Section 226
4 violation occurred and one hundred dollars per employee per violation for each subsequent pay
5 period, not to exceed an aggregate penalty of four thousand dollars per employee.

6 112. Pursuant to California Labor Code § 226(h), PLAINTIFF and Class Members are
7 entitled to bring an action for injunctive relief to ensure DEFENDANTS' compliance with
8 California Labor Code § 226(a). Injunctive relief is warranted because DEFENDANTS continue to
9 provide currently employed Class Members with inaccurate wage statements in violation of
10 California Labor Code § 226(a). Currently employed Class Members have no adequate legal remedy
11 for the continuing injuries that will be suffered as a result of DEFENDANTS' ongoing unlawful
12 conduct. Injunctive relief is the only remedy available for ensuring DEFENDANTS' compliance
13 with California Labor Code § 226(a).

14 113. Pursuant to California Labor Code §§ 226(e) and 226(h), PLAINTIFF and Class
15 Members are entitled to recover the full amount of penalties due under Section 226(e), reasonable
16 attorneys' fees, and costs of suit.

17 **SIXTH CAUSE OF ACTION**

18 **Failure to Reimburse Business Expenses**

19 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

20 114. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

21 115. California law requires employers to indemnify their employees for all necessary
22 expenditures incurred by the employee in direct consequence of the discharge of their duties or of
23 their obedience to the directions of the employer. *See* Cal. Lab. Code s. 2802 and all applicable
24 Wage Orders section 9(b). Furthermore, "for purposes of [section 2802], the term 'necessary
25 expenditure or losses' shall include all reasonable costs, including, but not limited to, attorneys' fees
26 incurred by the employee enforcing the rights granted by this section."

27 116. Among other things, under California law, when employees must use their personal
28 cellphones for work-related purposes, the employer must reimburse them for a reasonable
percentage of their cell phone bills. *See Cochran v. Schwan's Home Services, Inc.* (2014) 228

1 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was
2 required to use their personal cellphone for work-related purposes and not reimbursed for the use.
3 Id. 1144-1145. California law also requires employers to reimburse employees for automobile
4 expenses incurred for the business use of personal vehicles, such as for mileage, gas, and the wear
5 and tear on the vehicle. *See Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554.

6 117. As described above, PLAINTIFF and the Class Members were improperly required
7 to pay for business expenses that are legally the responsibility of the employer.

8 118. DEFENDANTS' failure to provide PLAINTIFF and the Class Members with full
9 reimbursement for all reasonable expenses associated with carrying out their duties required that
10 PLAINTIFF and the Class Members subsidize and/or carry the burden of business expenses in
11 violation of Labor Code section 2802.

12 119. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and the Class
13 Members have suffered injury in that they were not completely reimbursed as mandated by
14 California law.

15 120. Pursuant to California Labor Code section 2802, PLAINTIFF and the Class Members
16 are entitled to recover the full amount of reimbursable expenses due, in addition to reasonable
17 attorneys' fees, and costs of suit.

18 **SEVENTH CAUSE OF ACTION**

19 **Unfair Competition**

20 **(By PLAINTIFF and the Class Members Against all DEFENDANTS)**

21 121. PLAINTIFF incorporates all preceding paragraphs as if fully alleged herein.

22 122. DEFENDANTS' unlawful conduct alleged herein constitutes unfair competition
23 within the meaning of California Business and Professions Code section 17200 *et seq.* This unfair
24 conduct includes all unlawful conduct alleged herein, including but not limited to: DEFENDANTS'
25 failure to pay minimum and overtime wages by virtue of its illegal policies and practices;
26 DEFENDANTS' failure to authorize or permit, or provide, all required meal and rest periods or pay
27 proper premiums in lieu thereof; DEFENDANTS' failure to furnish complete and accurate itemized
28 wage statements; DEFENDANTS' failure to reimburse business expenses; and DEFENDANTS'
failure to provide paid sick leave (or paid time off in lieu thereof) at the properly accrued rates (due

1 to, including but not limited to, DEFENDANTS' failure to incorporate all non-discretionary
2 compensation into the sick pay calculation and failure to base the accrued sick leave on the correct
3 number of hours worked as a result of DEFENDANTS' time-rounding/auto deduction policies and
4 practices, payment according to scheduled hours worked and/or other off-the-clock work policies
5 and practices).

6 123. Due to DEFENDANTS' unfair and unlawful business practices in violation of the
7 California Labor Code, DEFENDANTS have gained a competitive advantage over other
8 comparable companies doing business in the State of California that comply with their obligations
9 to authorize or permit rest periods and meal periods or pay proper meal and rest period premiums
10 in lieu thereof, to properly accrue and pay sick time benefits, to provide complete and accurate
11 itemized wage statements, to reimburse employees for all business expenses, to pay all owed
12 minimum and overtime.

13 124. As a result of DEFENDANTS' unfair competition as alleged herein, PLAINTIFF
14 and Class Members have suffered injury in fact and lost money or property, as described in more
15 detail above. Pursuant to California Business and Professions Code section 17200, *et seq.*,
16 PLAINTIFF and Class Members are entitled to restitution of all wages and other monies rightfully
17 belonging to them that DEFENDANTS failed to pay and wrongfully retained by means of their
18 unlawful and unfair business practices.

19 125. PLAINTIFF also seeks an injunction against DEFENDANTS on behalf of the Class
20 Members, enjoining DEFENDANTS and any and all persons acting in concert with them from
21 engaging in each of the unlawful practices and policies set forth herein.

22 126. PLAINTIFF also seeks an award of attorney's fees pursuant to Code Civ. Proc
23 Section 1021.5 and as permitted by law, and an award for costs reasonably incurred, as permitted
24 by law.

25 ///

26 ///

27 ///

28 ///

PRAYER FOR RELIEF

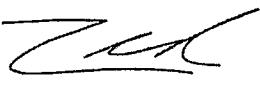
WHEREFORE, PLAINTIFF prays for relief and judgment, on behalf of PLAINTIFF and Class Members as follows:

1. For an order that the action be certified as a class action;
2. For an order that PLAINTIFF be appointed as class representative;
3. For an order that counsel for PLAINTIFF be appointed as class counsel;
4. For compensatory damages according to proof;
5. For liquidated damages according to proof;
6. For penalties according to proof;
7. For an order requiring DEFENDANTS to make restitution of all amounts wrongfully withheld from PLAINTIFF and the Class Members;
8. For an order finding DEFENDANTS have engaged in unfair competition in violation of section 17200, *et seq.*, of the California Business and Professions Code;
9. For an order enjoining DEFENDANTS from further acts of unfair competition;
10. For pre-judgment interest as permitted by law;
11. For attorney's fees and costs reasonably incurred; and
12. For such other and further relief that the Court deems just and proper.

Dated: February 17, 2023

CROSNER LEGAL, PC

By: _____


Michael R. Crosner, Esq.
Zachary M. Crosner, Esq.
Jamie Serb, Esq.
Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

PLAINTIFF demands a trial by jury on all claims so triable.

Dated: February 17, 2023

CROSNER LEGAL, PC

By: 

Michael R. Crosner, Esq.
Zachary M. Crosner, Esq.
Jamie Serb, Esq.
Attorneys for Plaintiff

<p align="center">SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES</p>		<p align="center">Reserved for Clerk's File Stamp</p>
<p>COURTHOUSE ADDRESS: Spring Street Courthouse 312 North Spring Street, Los Angeles, CA 90012</p>		<p align="center">FILED Superior Court of California County of Los Angeles 02/17/2023 David W. Slayton, Executive Officer / Clerk of Court By: <u>G. Carini</u> Deputy</p>
<p align="center">NOTICE OF CASE ASSIGNMENT UNLIMITED CIVIL CASE</p>		
<p>Your case is assigned for all purposes to the judicial officer indicated below.</p>		<p>CASE NUMBER: 23STCV03573</p>

THIS FORM IS TO BE SERVED WITH THE SUMMONS AND COMPLAINT

ASSIGNED JUDGE	DEPT	ROOM	ASSIGNED JUDGE	DEPT	ROOM
✓ David S. Cunningham III	11				

Given to the Plaintiff/Cross-Complainant/Attorney of Record David W. Slayton, Executive Officer / Clerk of Court
on 02/17/2023 By G. Carini, Deputy Clerk
(Date)

INSTRUCTIONS FOR HANDLING UNLIMITED CIVIL CASES

The following critical provisions of the California Rules of Court, Title 3, Division 7, as applicable in the Superior Court, are summarized for your assistance.

APPLICATION

The Division 7 Rules were effective January 1, 2007. They apply to all general civil cases.

PRIORITY OVER OTHER RULES

The Division 7 Rules shall have priority over all other Local Rules to the extent the others are inconsistent.

CHALLENGE TO ASSIGNED JUDGE

A challenge under Code of Civil Procedure Section 170.6 must be made within 15 days after notice of assignment for all purposes to a judge, or if a party has not yet appeared, within 15 days of the first appearance.

TIME STANDARDS

Cases assigned to the Independent Calendaring Courts will be subject to processing under the following time standards:

COMPLAINTS

All complaints shall be served within 60 days of filing and proof of service shall be filed within 90 days.

CROSS-COMPLAINTS

Without leave of court first being obtained, no cross-complaint may be filed by any party after their answer is filed. Cross-complaints shall be served within 30 days of the filing date and a proof of service filed within 60 days of the filing date.

STATUS CONFERENCE

A status conference will be scheduled by the assigned Independent Calendar Judge no later than 270 days after the filing of the complaint. Counsel must be fully prepared to discuss the following issues: alternative dispute resolution, bifurcation, settlement, trial date, and expert witnesses.

FINAL STATUS CONFERENCE

The Court will require the parties to attend a final status conference not more than 10 days before the scheduled trial date. All parties shall have motions in limine, bifurcation motions, statements of major evidentiary issues, dispositive motions, requested form jury instructions, special jury instructions, and special jury verdicts timely filed and served prior to the conference. These matters may be heard and resolved at this conference. At least five days before this conference, counsel must also have exchanged lists of exhibits and witnesses, and have submitted to the court a brief statement of the case to be read to the jury panel as required by Chapter Three of the Los Angeles Superior Court Rules.

SANCTIONS

The court will impose appropriate sanctions for the failure or refusal to comply with Chapter Three Rules, orders made by the Court, and time standards or deadlines established by the Court or by the Chapter Three Rules. Such sanctions may be on a party, or if appropriate, on counsel for a party.

This is not a complete delineation of the Division 7 or Chapter Three Rules, and adherence only to the above provisions is therefore not a guarantee against the imposition of sanctions under Trial Court Delay Reduction. Careful reading and compliance with the actual Chapter Rules is imperative.

Class Actions

Pursuant to Local Rule 2.3, all class actions shall be filed at the Stanley Mosk Courthouse and are randomly assigned to a complex judge at the designated complex courthouse. If the case is found not to be a class action it will be returned to an Independent Calendar Courtroom for all purposes.

***Provisionally Complex Cases**

Cases filed as provisionally complex are initially assigned to the Supervising Judge of complex litigation for determination of complex status. If the case is deemed to be complex within the meaning of California Rules of Court 3.400 et seq., it will be randomly assigned to a complex judge at the designated complex courthouse. If the case is found not to be complex, it will be returned to an Independent Calendar Courtroom for all purposes.

VOLUNTARY EFFICIENT LITIGATION STIPULATIONS

Superior Court of California
County of Los Angeles

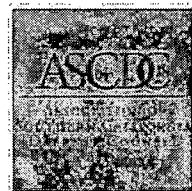


Los Angeles County
Bar Association
Litigation Section

Los Angeles County
Bar Association Labor and
Employment Law Section



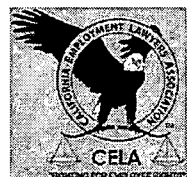
Consumer Attorneys
Association of Los Angeles



Southern California
Defense Counsel



Association of
Business Trial Lawyers



California Employment
Lawyers Association

The Early Organizational Meeting Stipulation, Discovery Resolution Stipulation, and Motions in Limine Stipulation are voluntary stipulations entered into by the parties. The parties may enter into one, two, or all three of the stipulations; however, they may not alter the stipulations as written, because the Court wants to ensure uniformity of application. These stipulations are meant to encourage cooperation between the parties and to assist in resolving issues in a manner that promotes economic case resolution and judicial efficiency.

The following organizations endorse the goal of promoting efficiency in litigation and ask that counsel consider using these stipulations as a voluntary way to promote communications and procedures among counsel and with the court to fairly resolve issues in their cases.

◆ Los Angeles County Bar Association Litigation Section ◆

◆ Los Angeles County Bar Association
Labor and Employment Law Section ◆

◆ Consumer Attorneys Association of Los Angeles ◆

◆ Southern California Defense Counsel ◆

◆ Association of Business Trial Lawyers ◆

◆ California Employment Lawyers Association ◆

NAME AND ADDRESS OF ATTORNEY OR PARTY WITHOUT ATTORNEY:		STATE BAR NUMBER	Reserved for Clerk's File Stamp
TELEPHONE NO.: E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):		FAX NO. (Optional):	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES			
COURTHOUSE ADDRESS:			
PLAINTIFF:			
DEFENDANT:			CASE NUMBER:
STIPULATION – EARLY ORGANIZATIONAL MEETING			

This stipulation is intended to encourage cooperation among the parties at an early stage in the litigation and to assist the parties in efficient case resolution.

The parties agree that:

1. The parties commit to conduct an initial conference (in-person or via teleconference or via videoconference) within 15 days from the date this stipulation is signed, *to discuss and consider whether there can be agreement on the following:*
 - a. Are motions to challenge the pleadings necessary? If the issue can be resolved by amendment as of right, or if the Court would allow leave to amend, could an amended complaint resolve most or all of the issues a demurrer might otherwise raise? If so, the parties agree to work through pleading issues so that a demurrer need only raise issues they cannot resolve. Is the issue that the defendant seeks to raise amenable to resolution on demurrer, or would some other type of motion be preferable? Could a voluntary targeted exchange of documents or information by any party cure an uncertainty in the pleadings?
 - b. Initial mutual exchanges of documents at the "core" of the litigation. (For example, in an employment case, the employment records, personnel file and documents relating to the conduct in question could be considered "core." In a personal injury case, an incident or police report, medical records, and repair or maintenance records could be considered "core.");
 - c. Exchange of names and contact information of witnesses;
 - d. Any insurance agreement that may be available to satisfy part or all of a judgment, or to indemnify or reimburse for payments made to satisfy a judgment;
 - e. Exchange of any other information that might be helpful to facilitate understanding, handling, or resolution of the case in a manner that preserves objections or privileges by agreement;
 - f. Controlling issues of law that, if resolved early, will promote efficiency and economy in other phases of the case. Also, when and how such issues can be presented to the Court;
 - g. Whether or when the case should be scheduled with a settlement officer, what discovery or court ruling on legal issues is reasonably required to make settlement discussions meaningful, and whether the parties wish to use a sitting judge or a private mediator or other options as

SHORT TITLE:	CASE NUMBER:
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discussed in the "Alternative Dispute Resolution (ADR) Information Package" served with the complaint;

- h. Computation of damages, including documents, not privileged or protected from disclosure, on which such computation is based;
 - i. Whether the case is suitable for the Expedited Jury Trial procedures (see information at www.lacourt.org under "Civil" and then under "General Information").
2. The time for a defending party to respond to a complaint or cross-complaint will be extended to _____ for the complaint, and _____ for the cross-complaint, which is comprised of the 30 days to respond under Government Code § 68616(b), and the 30 days permitted by Code of Civil Procedure section 1054(a), good cause having been found by the Civil Supervising Judge due to the case management benefits provided by this Stipulation. A copy of the General Order can be found at www.lacourt.org under "Civil", click on "General Information", then click on "Voluntary Efficient Litigation Stipulations".
 3. The parties will prepare a joint report titled "Joint Status Report Pursuant to Initial Conference and Early Organizational Meeting Stipulation, and if desired, a proposed order summarizing results of their meet and confer and advising the Court of any way it may assist the parties' efficient conduct or resolution of the case. The parties shall attach the Joint Status Report to the Case Management Conference statement, and file the documents when the CMC statement is due.
 4. References to "days" mean calendar days, unless otherwise noted. If the date for performing any act pursuant to this stipulation falls on a Saturday, Sunday or Court holiday, then the time for performing that act shall be extended to the next Court day

The following parties stipulate:

Date:

(TYPE OR PRINT NAME)

Date:

(TYPE OR PRINT NAME)

Date:

(TYPE OR PRINT NAME)

Date:

(TYPE OR PRINT NAME)

Date:

(TYPE OR PRINT NAME)

Date:

(TYPE OR PRINT NAME)

Date:

(TYPE OR PRINT NAME)

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(ATTORNEY FOR PLAINTIFF)

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(ATTORNEY FOR DEFENDANT)

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(ATTORNEY FOR DEFENDANT)

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(ATTORNEY FOR DEFENDANT)

>

(ATTORNEY FOR _____)

>

(ATTORNEY FOR _____)

>

(ATTORNEY FOR _____)

NAME AND ADDRESS OF ATTORNEY OR PARTY WITHOUT ATTORNEY:		STATE BAR NUMBER	Reserved for Clerk's File Stamp
TELEPHONE NO.: E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):		FAX NO. (Optional):	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES			
COURTHOUSE ADDRESS:			
PLAINTIFF:			
DEFENDANT:			
STIPULATION – DISCOVERY RESOLUTION			CASE NUMBER:

This stipulation is intended to provide a fast and informal resolution of discovery issues through limited paperwork and an informal conference with the Court to aid in the resolution of the issues.

The parties agree that:

1. Prior to the discovery cut-off in this action, no discovery motion shall be filed or heard unless the moving party first makes a written request for an Informal Discovery Conference pursuant to the terms of this stipulation.
2. At the Informal Discovery Conference the Court will consider the dispute presented by parties and determine whether it can be resolved informally. Nothing set forth herein will preclude a party from making a record at the conclusion of an Informal Discovery Conference, either orally or in writing.
3. Following a reasonable and good faith attempt at an informal resolution of each issue to be presented, a party may request an Informal Discovery Conference pursuant to the following procedures:
 - a. The party requesting the Informal Discovery Conference will:
 - i. File a Request for Informal Discovery Conference with the clerk's office on the approved form (copy attached) and deliver a courtesy, conformed copy to the assigned department;
 - ii. Include a brief summary of the dispute and specify the relief requested; and
 - iii. Serve the opposing party pursuant to any authorized or agreed method of service that ensures that the opposing party receives the Request for Informal Discovery Conference no later than the next court day following the filing.
 - b. Any Answer to a Request for Informal Discovery Conference must:
 - i. Also be filed on the approved form (copy attached);
 - ii. Include a brief summary of why the requested relief should be denied;

SHORT TITLE:	CASE NUMBER:
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- iii. Be filed within two (2) court days of receipt of the Request; and
 - iv. Be served on the opposing party pursuant to any authorized or agreed upon method of service that ensures that the opposing party receives the Answer no later than the next court day following the filing.
- c. No other pleadings, including but not limited to exhibits, declarations, or attachments, will be accepted.
 - d. If the Court has not granted or denied the Request for Informal Discovery Conference within ten (10) days following the filing of the Request, then it shall be deemed to have been denied. If the Court acts on the Request, the parties will be notified whether the Request for Informal Discovery Conference has been granted or denied and, if granted, the date and time of the Informal Discovery Conference, which must be within twenty (20) days of the filing of the Request for Informal Discovery Conference.
 - e. If the conference is not held within twenty (20) days of the filing of the Request for Informal Discovery Conference, unless extended by agreement of the parties and the Court, then the Request for the Informal Discovery Conference shall be deemed to have been denied at that time.
4. If (a) the Court has denied a conference or (b) one of the time deadlines above has expired without the Court having acted or (c) the Informal Discovery Conference is concluded without resolving the dispute, then a party may file a discovery motion to address unresolved issues.
 5. The parties hereby further agree that the time for making a motion to compel or other discovery motion is tolled from the date of filing of the Request for Informal Discovery Conference until (a) the request is denied or deemed denied or (b) twenty (20) days after the filing of the Request for Informal Discovery Conference, whichever is earlier, unless extended by Order of the Court.
- It is the understanding and intent of the parties that this stipulation shall, for each discovery dispute to which it applies, constitute a writing memorializing a "specific later date to which the propounding [or demanding or requesting] party and the responding party have agreed in writing," within the meaning of Code Civil Procedure sections 2030.300(c), 2031.320(c), and 2033.290(c).
6. Nothing herein will preclude any party from applying *ex parte* for appropriate relief, including an order shortening time for a motion to be heard concerning discovery.
 7. Any party may terminate this stipulation by giving twenty-one (21) days notice of intent to terminate the stipulation.
 8. References to "days" mean calendar days, unless otherwise noted. If the date for performing any act pursuant to this stipulation falls on a Saturday, Sunday or Court holiday, then the time for performing that act shall be extended to the next Court day.

SHORT TITLE:	CASE NUMBER:
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The following parties stipulate:

Date:		➤	
	(TYPE OR PRINT NAME)		(ATTORNEY FOR PLAINTIFF)
Date:		➤	
	(TYPE OR PRINT NAME)		(ATTORNEY FOR DEFENDANT)
Date:		➤	
	(TYPE OR PRINT NAME)		(ATTORNEY FOR DEFENDANT)
Date:		➤	
	(TYPE OR PRINT NAME)		(ATTORNEY FOR DEFENDANT)
Date:		➤	
	(TYPE OR PRINT NAME)		(ATTORNEY FOR _____)
Date:		➤	
	(TYPE OR PRINT NAME)		(ATTORNEY FOR _____)
Date:		➤	
	(TYPE OR PRINT NAME)		(ATTORNEY FOR _____)

NAME AND ADDRESS OF ATTORNEY OR PARTY WITHOUT ATTORNEY:		STATE BAR NUMBER	Reserved for Clerk's File Stamp
TELEPHONE NO.:		FAX NO. (Optional):	
E-MAIL ADDRESS (Optional):			
ATTORNEY FOR (Name):			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES			
COURTHOUSE ADDRESS:			
PLAINTIFF:			CASE NUMBER:
DEFENDANT:			
INFORMAL DISCOVERY CONFERENCE (pursuant to the Discovery Resolution Stipulation of the parties)			

1. This document relates to:

- ☐ Request for Informal Discovery Conference
☐ Answer to Request for Informal Discovery Conference

2. Deadline for Court to decide on Request: _____ (insert date 10 calendar days following filing of the Request).

3. Deadline for Court to hold Informal Discovery Conference: _____ (insert date 20 calendar days following filing of the Request).

4. For a Request for Informal Discovery Conference, **briefly** describe the nature of the discovery dispute, including the facts and legal arguments at issue. For an Answer to Request for Informal Discovery Conference, **briefly** describe why the Court should deny the requested discovery, including the facts and legal arguments at issue.

NAME AND ADDRESS OF ATTORNEY OR PARTY WITHOUT ATTORNEY:	STATE BAR NUMBER	Reserved for Clerk's File Stamp
TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES		
COURTHOUSE ADDRESS:		
PLAINTIFF:		
DEFENDANT:		CASE NUMBER:
STIPULATION AND ORDER – MOTIONS IN LIMINE		

This stipulation is intended to provide fast and informal resolution of evidentiary issues through diligent efforts to define and discuss such issues and limit paperwork.

The parties agree that:

1. At least ____ days before the final status conference, each party will provide all other parties with a list containing a one paragraph explanation of each proposed motion in limine. Each one paragraph explanation must identify the substance of a single proposed motion in limine and the grounds for the proposed motion.
2. The parties thereafter will meet and confer, either in person or via teleconference or videoconference, concerning all proposed motions in limine. In that meet and confer, the parties will determine:
 - a. Whether the parties can stipulate to any of the proposed motions. If the parties so stipulate, they may file a stipulation and proposed order with the Court.
 - b. Whether any of the proposed motions can be briefed and submitted by means of a short joint statement of issues. For each motion which can be addressed by a short joint statement of issues, a short joint statement of issues must be filed with the Court 10 days prior to the final status conference. Each side's portion of the short joint statement of issues may not exceed three pages. The parties will meet and confer to agree on a date and manner for exchanging the parties' respective portions of the short joint statement of issues and the process for filing the short joint statement of issues.
3. All proposed motions in limine that are not either the subject of a stipulation or briefed via a short joint statement of issues will be briefed and filed in accordance with the California Rules of Court and the Los Angeles Superior Court Rules.

SHORT TITLE:

CASE NUMBER:

The following parties stipulate:

Date:

(TYPE OR PRINT NAME)

Date:

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Date:

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Date:

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Date:

(TYPE OR PRINT NAME)

Date:

(TYPE OR PRINT NAME)

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(ATTORNEY FOR PLAINTIFF)

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(ATTORNEY FOR DEFENDANT)

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(ATTORNEY FOR DEFENDANT)

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(ATTORNEY FOR DEFENDANT)

>

(ATTORNEY FOR _____)

>

(ATTORNEY FOR _____)

>

(ATTORNEY FOR _____)

THE COURT SO ORDERS.

Date:

JUDICIAL OFFICER

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FILED
LOS ANGELES SUPERIOR COURT

MAY 11 2011

JOHN A. CLARKE, CLERK
N. Navarro
BY NANCY NAVARRO, DEPUTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

General Order Re)	ORDER PURSUANT TO CCP 1054(a),
Use of Voluntary Efficient Litigation)	EXTENDING TIME TO RESPOND BY
Stipulations)	30 DAYS WHEN PARTIES AGREE
)	TO EARLY ORGANIZATIONAL
)	MEETING STIPULATION

Whereas the Los Angeles Superior Court and the Executive Committee of the Litigation Section of the Los Angeles County Bar Association have cooperated in drafting "Voluntary Efficient Litigation Stipulations" and in proposing the stipulations for use in general jurisdiction civil litigation in Los Angeles County;

Whereas the Los Angeles County Bar Association Litigation Section; the Los Angeles County Bar Association Labor and Employment Law Section; the Consumer Attorneys Association of Los Angeles; the Association of Southern California Defense Counsel; the Association of Business Trial Lawyers of Los Angeles; and the California Employment Lawyers Association all "endorse the goal of promoting efficiency in litigation, and ask that counsel consider using these stipulations as a voluntary way to promote communications and procedures among counsel and with the court to fairly resolve issues in their cases;"

1 Whereas the Early Organizational Meeting Stipulation is intended to encourage
2 cooperation among the parties at an early stage in litigation in order to achieve
3 litigation efficiencies;

4 Whereas it is intended that use of the Early Organizational Meeting Stipulation
5 will promote economic case resolution and judicial efficiency;

6 Whereas, in order to promote a meaningful discussion of pleading issues at the
7 Early Organizational Meeting and potentially to reduce the need for motions to
8 challenge the pleadings, it is necessary to allow additional time to conduct the Early
9 Organizational Meeting before the time to respond to a complaint or cross complaint
10 has expired;

11 Whereas Code of Civil Procedure section 1054(a) allows a judge of the court in
12 which an action is pending to extend for not more than 30 days the time to respond to
13 a pleading "upon good cause shown";

14 Now, therefore, this Court hereby finds that there is good cause to extend for 30
15 days the time to respond to a complaint or to a cross complaint in any action in which
16 the parties have entered into the Early Organizational Meeting Stipulation. This finding
17 of good cause is based on the anticipated judicial efficiency and benefits of economic
18 case resolution that the Early Organizational Meeting Stipulation is intended to
19 promote.

20 IT IS HEREBY ORDERED that, in any case in which the parties have entered
21 into an Early Organizational Meeting Stipulation, the time for a defending party to
22 respond to a complaint or cross complaint shall be extended by the 30 days permitted
23

1 by Code of Civil Procedure section 1054(a) without further need of a specific court
2 order.

3
4 DATED: May 11, 2011

Carolyn B. Kuhl
Carolyn B. Kuhl, Supervising Judge of the
Civil Departments, Los Angeles Superior Court

SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES		Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: Spring Street Courthouse 312 North Spring Street, Los Angeles, CA 90012		FILED Superior Court of California County of Los Angeles 03/01/2023 David W. Slayton, Executive Officer / Clerk of Court By: <u>T. Lewis</u> Deputy
PLAINTIFF/PETITIONER: Benny Murray, II		
DEFENDANT/RESPONDENT: Alclear, LLC		
CERTIFICATE OF MAILING		CASE NUMBER: 23STCV03573

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the Minute Order (Court Order Re: Newly Filed Case) of 03/01/2023, Initial Status Conference Order upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Los Angeles, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Michael R. Crosner
Crosner Legal, PC
9440 Santa Monica Blvd., Suite 301
Beverly Hills, CA 90210

David W. Slayton, Executive Officer / Clerk of Court

Dated: 03/1/2023

By: T. Lewis
Deputy Clerk

CERTIFICATE OF MAILING

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Spring Street Courthouse, Department 11

23STCV03573

BENNY MURRAY, II vs ALCLEAR, LLC

March 1, 2023

2:55 PM

Judge: Honorable David S. Cunningham III

Judicial Assistant: T. Lewis

Courtroom Assistant: C. Concepcion

CSR: None

ERM: None

Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): No Appearances

For Defendant(s): No Appearances

NATURE OF PROCEEDINGS: Court Order Re: Newly Filed Case

By this order, the Court determines this case to be Complex according to Rule 3.400 of the California Rules of Court. The Clerk's Office has assigned this case to this department for all purposes.

Pursuant to Government Code Sections 70616(a) and 70616(b), a single complex fee of one thousand dollars (\$1,000.00) must be paid on behalf of all plaintiffs. For defendants, a complex fee of one thousand dollars (\$1,000.00) must be paid for each defendant, intervenor, respondent or adverse party, not to exceed, for each separate case number, a total of eighteen thousand dollars (\$18,000.00), collected from all defendants, intervenors, respondents, or adverse parties. All such fees are ordered to be paid to Los Angeles Superior Court, within ten (10) days of service of this order.

By this order, the Court stays the case, except for service of the Summons and Complaint. The stay continues at least until the Initial Status Conference. Initial Status Conference is set for 04/26/23 at 10:30 AM in this department. At least ten (10) days prior to the Initial Status Conference, counsel for all parties must discuss the issues set forth in the Initial Status Conference Order issued this date. Counsel must file a Joint Initial Status Conference Response Statement five (5) court days before the Initial Status Conference.

The Initial Status Conference Order, served concurrently with this Minute Order, is to help the Court and the parties manage this complex case by developing an orderly schedule for briefing, discovery, and court hearings. The parties are informally encouraged to exchange documents and information as may be useful for case evaluation.

Responsive pleadings shall not be filed until further Order of the Court. Parties must file a Notice of Appearance in lieu of an Answer or other responsive pleading. The filing of a Notice of Appearance shall not constitute a waiver of any substantive or procedural challenge to the

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Spring Street Courthouse, Department 11

23STCV03573

BENNY MURRAY, II vs ALCLEAR, LLC

March 1, 2023

2:55 PM

Judge: Honorable David S. Cunningham III
Judicial Assistant: T. Lewis
Courtroom Assistant: C. Concepcion

CSR: None
ERM: None
Deputy Sheriff: None

Complaint. Nothing in this order stays the time for filing an Affidavit of Prejudice pursuant to Code of Civil Procedure Section 170.6. Nothing in this order stays the filing of an Amended Complaint pursuant to Labor Code Section 2699.3(a)(2)(C) by a plaintiff wishing to add a Private Attorney General Act ("PAGA") claim.

For information on electronic filing in the Complex Courts, please refer to <https://www.lacourt.org/division/efiling/efiling2.aspx#civil>. See, in particular, the link therein for "Complex Civil efilng." Parties shall file all documents in conformity with the Presiding Judge's First Amended General Order of May 3, 2019, particularly including the provisions therein requiring Bookmarking with links to primary documents and citations; that Order is available on the Court's website at the link shown above.

For efficiency in communication with counsel, the complex program requires the parties in every new case to use an approved third-party cloud service that provides an electronic message board. In order to facilitate communication with counsel prior to the Initial Status Conference, the parties must sign-up with the e-service provider at least ten (10) court days in advance of the Initial Status Conference and advise the Court which provider was selected.

The court has implemented LACourtConnect to allow attorneys, self-represented litigants and parties to make audio or video appearances in Los Angeles County courtrooms. LACourtConnect technology provides a secure, safe and convenient way to attend hearings remotely. A key element of the Court's Access LACourt YOUR WAY program to provide services and access to justice, LACourtConnect is intended to enhance social distancing and change the traditional in-person courtroom appearance model. See <https://my.lacourt.org/laccwelcome> for more information.

This Complex Courtroom does not use Los Angeles Superior Court's Court Reservation ("CRS") portal to reserve motion hearing dates. Rather, counsel may secure dates by calling the Courtroom Assistant at 213-310-70xx with the "xx" being the Department number, e.g. Dept. 1 is 01 and Dept. 10 is 10.

Court reporters are not provided for hearings or trials. The parties should make their own arrangements for any hearing where a transcript is desired.

If you believe a party or witness will need an interpreter, see the court's website for information on how to make such a request in a timely manner. <https://www.lacourt.org/irud/UI/index.aspx>

Counsel are directed to access the following link for further information on procedures in the

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Spring Street Courthouse, Department 11

23STCV03573

BENNY MURRAY, II vs ALCLEAR, LLC

March 1, 2023

2:55 PM

Judge: Honorable David S. Cunningham III

Judicial Assistant: T. Lewis

Courtroom Assistant: C. Concepcion

CSR: None

ERM: None

Deputy Sheriff: None

Complex litigation Program courtrooms: <https://www.lacourt.org/division/civil/CI0042.aspx>.

The plaintiff must serve a copy of this minute order and the attached Initial Status Conference Order on all parties forthwith and file a Proof of Service in this department within seven (7) days of service.

Certificate of Mailing is attached.

FILED
Superior Court of California
County of Los Angeles

MAR 01 2023

David W. Stalton, Executive Officer/Clerk of Court
By: T. Lewis, Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

Benny Murray II

Plaintiff,

v.

Alclear, LLC

Defendant

Case No. 23STCV03573
INITIAL STATUS CONFERENCE ORDER
(COMPLEX LITIGATION PROGRAM)

Case Assigned for All Purposes to
Judge David S. Cunningham III

Department: SS11
Date: April 26, 2023
Time: 10:30 a.m.

This case has been assigned for all purposes to Judge David S. Cunningham III in the Complex Litigation Program. An Initial Status Conference is set for April 26, 2023 at 10:30 a.m. in Department SS11 located in the Spring Street Superior Courthouse at 312 N. Spring Street, Los Angeles, California 90012. Counsel for all parties are ordered to attend.

The court orders counsel to prepare for the Initial Status Conference by identifying and discussing the central legal and factual issues in the case. Counsel for plaintiff is ordered to initiate contact with counsel for defense to begin this process. Counsel then must negotiate and agree, as much as possible, on a case management plan. To this end, counsel must file a Joint Initial Status Conference Class Action Response Statement five court days before the Initial Status Conference. The Joint Response Statement must be filed on line-numbered pleading paper and must specifically answer each

1 of the below-numbered questions. Do not use the Judicial Council Form CM-110 (Case Management
2 Statement).

- 3 **1. PARTIES AND COUNSEL:** Please list all presently-named class representatives and presently-
4 named defendants, together with all counsel of record, including counsel's contact and email
5 information.
- 6 **2. STATUS OF PLEADINGS:** Please indicate whether defendant has filed a Notice of Appearance
7 or an Answer to the Complaint, and, if so, indicate the filing date(s).
- 8 **3. POTENTIAL ADDITIONAL PARTIES:** Indicate whether any plaintiff presently intends to add
9 additional class representatives, and, if so, the name(s) and date by which these class representatives
10 will be added. Indicate whether any plaintiff presently intends to name additional defendants, and, if
11 so, the name(s) and date by which the defendant(s) will be added. Indicate whether any appearing
12 defendant presently intends to file a cross-complaint and, if so, the names of cross-defendants and
13 the date by which the cross-complaint will be filed.
- 14 **4. IMPROPERLY NAMED DEFENDANT(S):** If the complaint names the wrong person or entity,
15 please explain why the named defendant is improperly named and the proposed procedure to correct
16 this error.
- 17 **5. ADEQUACY OF PROPOSED CLASS REPRESENTATIVE(S):** If any party believes one or
18 more named plaintiffs might not be an adequate class representative, including reasons of conflict of
19 interest as described in *Apple Computer v. The Superior Court of Los Angeles County* (2005) 126
20 Cal.App.4th 1253, please explain. No prejudice will attach to these responses.
- 21 **6. ESTIMATED CLASS SIZE:** Please discuss and indicate the estimated class size.
- 22 **7. OTHER ACTIONS WITH OVERLAPPING CLASS DEFINITIONS:** Please list other cases
23 with overlapping class definitions. Please identify the court, the short caption title, the docket
24 number, and the case status.
- 25
26
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1 **8. POTENTIALLY RELEVANT ARBITRATION AND/OR CLASS ACTION WAIVER**

2 **CLAUSES:** Please state whether arbitration is an issue in this case and attach a sample of any
3 relevant clause of this sort. Opposing parties must summarize their views on this issue.

4 **9. POTENTIAL EARLY CRUCIAL MOTIONS:** Opposing counsel should identify and describe
5 the significant core issues in the case, and then identify efficient ways to resolve those issues,
6 including one or more of the following:

- 7 ■ Motion to Compel Arbitration,
- 8 ■ Early motions in limine,
- 9 ■ Early motions about particular jury instructions and verdict forms,
- 10 ■ Demurrers,
- 11 ■ Motions to strike,
- 12 ■ Motions for judgment on the pleadings, and
- 13 ■ Motions for summary judgment and summary adjudication.

14 **10. CLASS CONTACT INFORMATION:** Counsel should discuss whether obtaining class contact
15 information from defendant's records is necessary in this case and, if so, whether the parties
16 consent to an "opt-out" notice process (as approved in *Belaire-West Landscape, Inc. v. Superior*
17 *Court* (2007) 149 Cal.App.4th 554, 561). Counsel should address timing and procedure, including
18 allocation of cost and the necessity of a third party administrator.

19 **11. PROTECTIVE ORDERS:** Parties considering an order to protect confidential information from
20 general disclosure should begin with the model protective orders found on the Los Angeles Superior
21 Court Website under "Civil Tools for Litigators."

22 **12. DISCOVERY:** Please discuss a discovery plan. If the parties cannot agree on a plan, summarize
23 each side's views on discovery. The court generally allows discovery on matters relevant to class
24 certification, which (depending on circumstances) may include factual issues also touching the
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1 merits. The court generally does not permit extensive or expensive discovery relevant only to the
2 merits (for example, detailed damages discovery) at the initial stage unless a persuasive showing
3 establishes early need. If any party seeks discovery from absent class members, please estimate how
4 many, and also state the kind of discovery you propose¹.

5 **13. INSURANCE COVERAGE:** Please state if (1) there is insurance for indemnity or reimbursement,
6 and (2) whether there are any insurance coverage issues which might affect settlement.

7 **14. ALTERNATIVE DISPUTE RESOLUTION:** Please discuss ADR and state each party's position
8 about it. If pertinent, how can the court help identify the correct neutral and prepare the case for a
9 successful settlement negotiation?
10

11 **15. TIMELINE FOR CASE MANAGEMENT:** Please recommend dates and times for the following:

- 12 ■ The next status conference,
- 13 ■ A schedule for alternative dispute resolution, if it is relevant,
- 14 ■ A filing deadline for the motion for class certification, and
- 15 ■ Filing deadlines and descriptions for other anticipated non-discovery motions.
16

17 **16. ELECTRONIC SERVICE OF PAPERS:** For efficiency the complex program requires the parties
18 in every new case to use a third-party cloud service. Please agree on one and submit the parties'
19 choice when filing the Joint Initial Status Conference Class Action Response Statement. If there is
20 agreement, please identify the vendor. If parties cannot agree, the court will select the vendor at the
21 Initial Status Conference. Electronic service is not the same as electronic filing. Only traditional
22 methods of filing by physical delivery of original papers or by fax filing are presently acceptable.
23

24 **Reminder When Seeking To Dismiss Or To Obtain Settlement Approval:**

25 "A dismissal of an entire class action, or of any party or cause of action in a class action, requires
26

27
28 ¹ See California Rule of Court, Rule 3.768.

1 court approval. . . . Requests for dismissal must be accompanied by a declaration setting forth the facts
2 on which the party relies. The declaration must clearly state whether consideration, direct or indirect, is
3 being given for the dismissal and must describe the consideration in detail.”² If the parties have settled
4 the class action, that too will require judicial approval based on a noticed motion (although it may be
5 possible to shorten time by consent for good cause shown).

6 **Reminder When Seeking Approval of a Settlement:**

7
8 Plaintiff(s) must address the issue of any fee splitting agreement in their motion for preliminary
9 approval and demonstrate compliance with California Rule of Court 3.769, and the Rules of
10 Professional Conduct 2-200(a) as required by Mark v. Spencer (2008) 166 Cal.App. 4th 219.

11 Pending further order of this Court, and except as otherwise provided in this Initial Status
12 Conference Order, these proceedings are stayed in their entirety. This stay precludes the filing of any
13 answer, demurrer, motion to strike, or motions challenging the jurisdiction of the Court; however, any
14 defendant may file a Notice of Appearance for purposes of identification of counsel and preparation of a
15 service list. The filing of such a Notice of Appearance is without prejudice to any challenge to the
16 jurisdiction of the Court, substantive or procedural challenges to the Complaint, without prejudice to any
17 affirmative defense, and without prejudice to the filing of any cross-complaint in this action. This stay is
18 issued to assist the Court and the parties in managing this “complex” case through the development of
19 an orderly schedule for briefing and hearings on procedural and substantive challenges to the complaint
20 and other issues that may assist in the orderly management of these cases. This stay does not preclude
21 the parties from informally exchanging documents that may assist in their initial evaluation of the issues
22 presented in this case, however it stays all outstanding discovery requests.
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24

25 Plaintiff’s counsel is directed to serve a copy of this Initial Status Conference Order along with a
26

27
28 ² California Rule of Court, Rule 3.770(a)

1 copy of the attached Guidelines for Motions for Preliminary and Final Approval of Class Settlement on
2 counsel for all parties, or if counsel has not been identified, on all parties, within five (5) days of service
3 of this order. If any defendant has not been served in this action, service is to be completed within
4 twenty (20) days of the date of this order.

5 If all parties have been served, have conducted the required meet and confer, and are ready to
6 fully participate in the status conference prior to the assigned date, counsel may contact the clerk of
7 Department SS11 and request an earlier date for the Initial Status Conference.
8

9
10 Dated:

MAR 01 2023



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12 DAVID S. CUNNINGHAM III
13 Judge of the Los Angeles Superior Court
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FILED
Superior Court of California
County of Los Angeles

MAY 03 2019

Sherri R. Carter, Executive Officer/Clerk

By Rizalinda Mina, Deputy
Rizalinda Mina

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

IN RE LOS ANGELES SUPERIOR COURT) FIRST AMENDED GENERAL ORDER
– MANDATORY ELECTRONIC FILING)
FOR CIVIL)

On December 3, 2018, the Los Angeles County Superior Court mandated electronic filing of all documents in Limited Civil cases by litigants represented by attorneys. On January 2, 2019, the Los Angeles County Superior Court mandated electronic filing of all documents filed in Non-Complex Unlimited Civil cases by litigants represented by attorneys. (California Rules of Court, rule 2.253(b).) All electronically filed documents in Limited and Non-Complex Unlimited cases are subject to the following:

1) DEFINITIONS

- a) **“Bookmark”** A bookmark is a PDF document navigational tool that allows the reader to quickly locate and navigate to a designated point of interest within a document.
- b) **“Efiling Portal”** The official court website includes a webpage, referred to as the efiling portal, that gives litigants access to the approved Electronic Filing Service Providers.
- c) **“Electronic Envelope”** A transaction through the electronic service provider for submission of documents to the Court for processing which may contain one or more PDF documents attached.
- d) **“Electronic Filing”** Electronic Filing (eFiling) is the electronic transmission to a Court of a document in electronic form. (California Rules of Court, rule 2.250(b)(7).)

e) **“Electronic Filing Service Provider”** An Electronic Filing Service Provider (EFSP) is a person or entity that receives an electronic filing from a party for retransmission to the Court. In the submission of filings, the EFSP does so on behalf of the electronic filer and not as an agent of the Court. (California Rules of Court, rule 2.250(b)(8).)

f) **“Electronic Signature”** For purposes of these local rules and in conformity with Code of Civil Procedure section 17, subdivision (b)(3), section 34, and section 1010.6, subdivision (b)(2), Government Code section 68150, subdivision (g), and California Rules of Court, rule 2.257, the term “Electronic Signature” is generally defined as an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record.

g) **“Hyperlink”** An electronic link providing direct access from one distinctively marked place in a hypertext or hypermedia document to another in the same or different document.

h) **“Portable Document Format”** A digital document format that preserves all fonts, formatting, colors and graphics of the original source document, regardless of the application platform used.

2) MANDATORY ELECTRONIC FILING

a) Trial Court Records

Pursuant to Government Code section 68150, trial court records may be created, maintained, and preserved in electronic format. Any document that the Court receives electronically must be clerically processed and must satisfy all legal filing requirements in order to be filed as an official court record (California Rules of Court, rules 2.100, et seq. and 2.253(b)(6)).

b) Represented Litigants

Pursuant to California Rules of Court, rule 2.253(b), represented litigants are required to electronically file documents with the Court through an approved EFSP.

c) Public Notice

The Court has issued a Public Notice with effective dates the Court required parties to electronically file documents through one or more approved EFSPs. Public Notices containing effective dates and the list of EFSPs are available on the Court’s website, at www.lacourt.org.

1 d) Documents in Related Cases

2 Documents in related cases must be electronically filed in the eFiling portal for that case type if
3 electronic filing has been implemented in that case type, regardless of whether the case has
4 been related to a Civil case.

5 3) EXEMPT LITIGANTS

6 a) Pursuant to California Rules of Court, rule 2.253(b)(2), self-represented litigants are exempt
7 from mandatory electronic filing requirements.

8 b) Pursuant to Code of Civil Procedure section 1010.6, subdivision (d)(3) and California Rules of
9 Court, rule 2.253(b)(4), any party may make application to the Court requesting to be excused
10 from filing documents electronically and be permitted to file documents by conventional
11 means if the party shows undue hardship or significant prejudice.

12 4) EXEMPT FILINGS

13 a) The following documents shall not be filed electronically:

- 14 i) Peremptory Challenges or Challenges for Cause of a Judicial Officer pursuant to Code of
15 Civil Procedure sections 170.6 or 170.3;
- 16 ii) Bonds/Undertaking documents;
- 17 iii) Trial and Evidentiary Hearing Exhibits
- 18 iv) Any ex parte application that is filed concurrently with a new complaint including those
19 that will be handled by a Writs and Receivers department in the Mosk courthouse; and
- 20 v) Documents submitted conditionally under seal. The actual motion or application shall be
21 electronically filed. A courtesy copy of the electronically filed motion or application to
22 submit documents conditionally under seal must be provided with the documents
23 submitted conditionally under seal.

24 b) Lodgments

25 Documents attached to a Notice of Lodgment shall be lodged and/or served conventionally in
26 paper form. The actual document entitled, "Notice of Lodgment," shall be filed electronically.

27 //

28 //

1 5) ELECTRONIC FILING SYSTEM WORKING PROCEDURES

2 Electronic filing service providers must obtain and manage registration information for persons
3 and entities electronically filing with the court.

4 6) TECHNICAL REQUIREMENTS

5 a) Electronic documents must be electronically filed in PDF, text searchable format **when**
6 technologically feasible without impairment of the document's image.

7 b) The table of contents for any filing must be bookmarked.

8 c) Electronic documents, including but not limited to, declarations, proofs of service, and
9 exhibits, must be bookmarked within the document pursuant to California Rules of Court, rule
10 3.1110(f)(4). Electronic bookmarks must include links to the first page of each bookmarked
11 item (e.g. exhibits, declarations, deposition excerpts) and with bookmark titles that identify the
12 bookedmarked item and briefly describe the item.

13 d) Attachments to primary documents must be bookmarked. Examples include, but are not
14 limited to, the following:

15 i) Depositions;

16 ii) Declarations;

17 iii) Exhibits (including exhibits to declarations);

18 iv) Transcripts (including excerpts within transcripts);

19 v) Points and Authorities;

20 vi) Citations; and

21 vii) Supporting Briefs.

22 e) Use of hyperlinks within documents (including attachments and exhibits) is strongly
23 encouraged.

24 f) Accompanying Documents

25 Each document accompanying a single pleading must be electronically filed as a **separate**
26 digital PDF document.

27 g) Multiple Documents

28 Multiple documents relating to one case can be uploaded in one envelope transaction.

h) Writs and Abstracts

Writs and Abstracts must be submitted as a separate electronic envelope.

i) Sealed Documents

If and when a judicial officer orders documents to be filed under seal, those documents must be filed electronically (unless exempted under paragraph 4); the burden of accurately designating the documents as sealed at the time of electronic submission is the submitting party's responsibility.

j) Redaction

Pursuant to California Rules of Court, rule 1.201, it is the submitting party's responsibility to redact confidential information (such as using initials for names of minors, using the last four digits of a social security number, and using the year for date of birth) so that the information shall not be publicly displayed.

7) ELECTRONIC FILING SCHEDULE

a) Filed Date

i) Any document received electronically by the court between 12:00 am and 11:59:59 pm shall be deemed to have been effectively filed on that court day if accepted for filing. Any document received electronically on a non-court day, is deemed to have been effectively filed on the next court day if accepted. (California Rules of Court, rule 2.253(b)(6); Code Civ. Proc. § 1010.6(b)(3).)

ii) Notwithstanding any other provision of this order, if a digital document is not filed in due course because of: (1) an interruption in service; (2) a transmission error that is not the fault of the transmitter; or (3) a processing failure that occurs after receipt, the Court may order, either on its own motion or by noticed motion submitted with a declaration for Court consideration, that the document be deemed filed and/or that the document's filing date conform to the attempted transmission date.

8) EX PARTE APPLICATIONS

a) Ex parte applications and all documents in support thereof must be electronically filed no later than 10:00 a.m. the court day before the ex parte hearing.

b) Any written opposition to an ex parte application must be electronically filed by 8:30 a.m. the day of the ex parte hearing. A printed courtesy copy of any opposition to an ex parte application must be provided to the court the day of the ex parte hearing.

9) PRINTED COURTESY COPIES

a) For any filing electronically filed two or fewer days before the hearing, a courtesy copy must be delivered to the courtroom by 4:30 p.m. the same business day the document is efiled. If the efiled is submitted after 4:30 p.m., the courtesy copy must be delivered to the courtroom by 10:00 a.m. the next business day.

b) Regardless of the time of electronic filing, a printed courtesy copy (along with proof of electronic submission) is required for the following documents:

- i) Any printed document required pursuant to a Standing or General Order;
- ii) Pleadings and motions (including attachments such as declarations and exhibits) of 26 pages or more;
- iii) Pleadings and motions that include points and authorities;
- iv) Demurrers;
- v) Anti-SLAPP filings, pursuant to Code of Civil Procedure section 425.16;
- vi) Motions for Summary Judgment/Adjudication; and
- vii) Motions to Compel Further Discovery.

c) Nothing in this General Order precludes a Judicial Officer from requesting a courtesy copy of additional documents. Courtroom specific courtesy copy guidelines can be found at www.lacourt.org on the Civil webpage under "Courtroom Information."

10) WAIVER OF FEES AND COSTS FOR ELECTRONICALLY FILED DOCUMENTS

- a) Fees and costs associated with electronic filing must be waived for any litigant who has received a fee waiver. (California Rules of Court, rules 2.253(b)(), 2.258(b), Code Civ. Proc. § 1010.6(d)(2).)
- b) Fee waiver applications for waiver of court fees and costs pursuant to Code of Civil Procedure section 1010.6, subdivision (b)(6), and California Rules of Court, rule 2.252(f), may be electronically filed in any authorized action or proceeding.

11) SIGNATURES ON ELECTRONIC FILING

For purposes of this General Order, all electronic filings must be in compliance with California Rules of Court, rule 2.257. This General Order applies to documents filed within the Civil Division of the Los Angeles County Superior Court.

This First Amended General Order supersedes any previous order related to electronic filing, and is effective immediately, and is to remain in effect until otherwise ordered by the Civil Supervising Judge and/or Presiding Judge.

DATED: May 3, 2019



Kevin C. Brazile
KEVIN C. BRAZILE
Presiding Judge



Superior Court of California, County of Los Angeles

ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION PACKAGE

THE PLAINTIFF MUST SERVE THIS ADR INFORMATION PACKAGE ON EACH PARTY WITH THE COMPLAINT.

CROSS-COMPLAINANTS must serve this ADR Information Package on any new parties named to the action with the cross-complaint.

What is ADR?

ADR helps people find solutions to their legal disputes without going to trial. The main types of ADR are negotiation, mediation, arbitration, and settlement conferences. When ADR is done by phone, videoconference or computer, it may be called Online Dispute Resolution (ODR). These alternatives to litigation and trial are described below.

Advantages of ADR

- **Saves Time:** ADR is faster than going to trial.
- **Saves Money:** Parties can save on court costs, attorney's fees, and witness fees.
- **Keeps Control** (with the parties): Parties choose their ADR process and provider for voluntary ADR.
- **Reduces Stress/Protects Privacy:** ADR is done outside the courtroom, in private offices, by phone or online.

Disadvantages of ADR

- **Costs:** If the parties do not resolve their dispute, they may have to pay for ADR, litigation, and trial.
- **No Public Trial:** ADR does not provide a public trial or a decision by a judge or jury.

Main Types of ADR

1. **Negotiation:** Parties often talk with each other in person, or by phone or online about resolving their case with a settlement agreement instead of a trial. If the parties have lawyers, they will negotiate for their clients.
2. **Mediation:** In mediation, a neutral mediator listens to each person's concerns, helps them evaluate the strengths and weaknesses of their case, and works with them to try to create a settlement agreement that is acceptable to all. Mediators do not decide the outcome. Parties may go to trial if they decide not to settle.

Mediation may be appropriate when the parties

- want to work out a solution but need help from a neutral person.
- have communication problems or strong emotions that interfere with resolution.

Mediation may not be appropriate when the parties

- want a public trial and want a judge or jury to decide the outcome.
- lack equal bargaining power or have a history of physical/emotional abuse.

How to Arrange Mediation in Los Angeles County

Mediation for **civil cases** is voluntary and parties may select any mediator they wish. Options include:

a. **The Civil Mediation Vendor Resource List**

If all parties in an active civil case agree to mediation, they may contact these organizations to request a "Resource List Mediation" for mediation at reduced cost or no cost (for selected cases).

- **ADR Services, Inc.** Case Manager Elizabeth Sanchez, elizabeth@adrservices.com (949) 863-9800
- **Mediation Center of Los Angeles** Program Manager info@mediationLA.org (833) 476-9145

These organizations cannot accept every case and they may decline cases at their discretion. They may offer online mediation by video conference for cases they accept. Before contacting these organizations, review important information and FAQs at www.lacourt.org/ADR.Res.List

NOTE: The Civil Mediation Vendor Resource List program does not accept family law, probate or small claims cases.

b. **Los Angeles County Dispute Resolution Programs**

<https://hrc.lacounty.gov/wp-content/uploads/2020/05/DRP-Fact-Sheet-23October19-Current-as-of-October-2019-1.pdf>

Day of trial mediation programs have been paused until further notice.

Online Dispute Resolution (ODR). Parties in small claims and unlawful detainer (eviction) cases should carefully review the Notice and other information they may receive about (ODR) requirements for their case.

c. Mediators and ADR and Bar organizations that provide mediation may be found on the internet.

3. Arbitration: Arbitration is less formal than trial, but like trial, the parties present evidence and arguments to the person who decides the outcome. In "binding" arbitration, the arbitrator's decision is final; there is no right to trial. In "nonbinding" arbitration, any party can request a trial after the arbitrator's decision. For more information about arbitration, visit <http://www.courts.ca.gov/programs-adr.htm>

4. Mandatory Settlement Conferences (MSC): MSCs are ordered by the Court and are often held close to the trial date or on the day of trial. The parties and their attorneys meet with a judge or settlement officer who does not make a decision but who instead assists the parties in evaluating the strengths and weaknesses of the case and in negotiating a settlement. For information about the Court's MSC programs for civil cases, visit <http://www.lacourt.org/division/civil/C10047.aspx>

Los Angeles Superior Court ADR website: <http://www.lacourt.org/division/civil/C10109.aspx>
For general information and videos about ADR, visit <http://www.courts.ca.gov/programs-adr.htm>

EXHIBIT B

Eric J. Gitig (SBN 307547)
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Electronically FILED by
Superior Court of California,
County of Los Angeles
4/19/2023 6:38 PM
David W. Slayton,
Executive Officer/Clerk of Court,
By K. Valenzuela, Deputy Clerk

Attorneys for Defendant
ALCLEAR, LLC

**SUPERIOR COURT OF THE STATE OF CALIFORNIA COURT
COUNTY OF LOS ANGELES**

BENNY MURRAY II, as an individual on behalf
of himself and on behalf of all others similarly
situated,

Plaintiff,

vs.

ALCLEAR, LLC, Delaware limited liability
company; and DOES 1-100, inclusive,

Defendants.

Case No.: 23STCV03573

(CLASS ACTION)

*[Assigned for all purposes to the Honorable
David Cunningham III]*

**DEFENDANT ALCLEAR, LLC'S ANSWER
TO PLAINTIFF BENNY MURRAY II'S
UNVERIFIED COMPLAINT**

Complaint Filed: February 17, 2023

**TO THE HONORABLE COURT, PLAINTIFF BENNY MURRAY II, AND PLAINTIFF'S
ATTORNEYS OF RECORD:** Defendant ALCLEAR, LLC ("Defendant") on behalf of itself and for no
other defendant, hereby responds to the unverified Complaint ("Complaint") filed by Plaintiff BENNY
MURRAY II ("Plaintiff") as follows:

GENERAL DENIAL

Under the provisions of Code of Civil Procedure § 431.30(d), Defendant denies, generally and
specifically, each and every allegation contained in the Complaint. Defendant further denies, generally and
specifically, that Plaintiff and/or any member of the class he purports to represent (collectively, "putative
class members") have suffered any injury or been damaged in any sum whatsoever by reason of any act or
omission on the part of Defendant, or any of its past or present agents, representatives, or employees.

AFFIRMATIVE DEFENSES

Defendant has not completed its investigation of the facts of this case, has not completed discovery in this matter, and has not completed its preparation for trial. The affirmative defenses asserted herein are based on Defendant's knowledge, information and belief at this time, and Defendant specifically reserves the right to modify, amend or supplement any affirmative defense contained herein at any time. Without conceding that they bear the burden of proof or persuasion as to any one of these, Defendant alleges the following defenses to the Complaint:

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

1. The Complaint as a whole, and each purported cause of action alleged therein, fails to state facts sufficient to constitute a cause of action against Defendant upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

(Statute of Limitations)

2. The Complaint is barred, in whole or in part, by the applicable statute of limitations including, but not limited to California Code of Civil Procedure sections 337, 338, 339, 340, and 343, California Labor Code section 203(b), and California Business and Professions Code section 17208.

THIRD AFFIRMATIVE DEFENSE

(Waiver and Release)

3. Some or all of Plaintiff's claims are barred, in whole or in part, to the extent such claims have been waived, discharged, or released.

FOURTH AFFIRMATIVE DEFENSE

(Equitable Defenses)

4. The Complaint is barred, in whole or in part, by the doctrines of laches, estoppel, waiver, and unclean hands.

FIFTH AFFIRMATIVE DEFENSE

(Avoidable Consequences Doctrine)

5. The Complaint is barred, in whole or in part, under the avoidable consequences doctrine. Defendant had procedures in place for reporting work-related issues, including, but not limited to, issues

1 related to timekeeping, meal periods, and rest periods. Plaintiff and putative class members unreasonably
2 failed to utilize Defendant's preventive and corrective measures, and reasonable use of Defendant's
3 preventive and corrective measures would have prevented at least some of the harm Plaintiff and putative
4 class members allegedly suffered. *State Dept. of Health Services v. Superior Court of Sacramento County*
5 (*McGinnis*) (2003) 31 Cal.4th 1026.

6 **SIXTH AFFIRMATIVE DEFENSE**

7 **(All Due Compensation Paid)**

8 6. The Complaint is barred, in whole or in part, because Plaintiff and putative class members
9 have been paid all income, compensation and pay to which they have ever been entitled to under the
10 California Labor Code and the applicable orders of the Industrial Welfare Commission.

11 **SEVENTH AFFIRMATIVE DEFENSE**

12 **(Accord and Satisfaction)**

13 7. The Complaint is barred, in whole or in part, to the extent Plaintiff and putative class
14 members entered into an accord and satisfaction of any claim asserted in this lawsuit.

15 **EIGHTH AFFIRMATIVE DEFENSE**

16 **(Failure to Exhaust Administrative Remedies)**

17 8. The Complaint is barred, in whole or in part, because Plaintiff failed to timely and
18 completely exhaust the requisite administrative remedies under the California Labor Code.

19 **NINTH AFFIRMATIVE DEFENSE**

20 **(Adequate Remedy at Law)**

21 9. Plaintiff and putative class members are not entitled to any equitable or injunctive relief as
22 claimed or prayed for in the Complaint because Plaintiff and putative class members have not suffered
23 any irreparable injury based on any alleged conduct of Defendant, and Plaintiff and putative class members
24 have an adequate remedy at law for any such conduct.

25 **TENTH AFFIRMATIVE DEFENSE**

26 **(Set-Off for Unearned Compensation)**

27 10. Without admitting the allegations of the Complaint, but rather expressly denying them,
28 Defendant is entitled to a set-off for amounts Plaintiff and putative class members owe Defendant for

1 receipt of any wages and other benefits to which they were not entitled and/or did not earn. *See Witt v.*
2 *Jackson* (1961) 57 Cal.2d 57.

3 **ELEVENTH AFFIRMATIVE DEFENSE**

4 **(Failure to Comply with Reasonable Directions)**

5 11. Defendant is informed and believes, and thereon allege, that any recovery on the Complaint
6 as a whole, or on each purported cause of action alleged therein, is barred by California Labor Code
7 sections 2854 and 2856 to the extent Plaintiff and putative class members failed to use ordinary care and
8 diligence in the performance of their duties and failed to comply substantially with the reasonable
9 directions of their employer.

10 **TWELFTH AFFIRMATIVE DEFENSE**

11 **(Lack of Knowledge)**

12 12. The Complaint is barred, in whole or in part, because Defendant did not have knowledge
13 of any alleged violations of the Labor Code.

14 **THIRTEENTH AFFIRMATIVE DEFENSE**

15 **(Lack of Standing)**

16 13. The Complaint as a whole, and each purported cause of action alleged therein, is barred in
17 whole or in part to the extent Plaintiff and some, or all, of the putative class members Plaintiff seeks to
18 represent lack standing to bring this action.

19 **FOURTEENTH AFFIRMATIVE DEFENSE**

20 **(Voluntary Waiver of Meal and Rest Periods)**

21 14. The Complaint is barred, in whole or in part, because Plaintiff and putative class members
22 voluntarily chose not to take provided meal and rest periods as reasonably expected by Defendant, and/or
23 voluntarily waived the same.

24 **FIFTEENTH AFFIRMATIVE DEFENSE**

25 **(No Injury)**

26 15. Without admitting the allegations of the Complaint, but rather expressly denying them, the
27 Complaint is barred, in whole or in part, because, even assuming *arguendo* that Plaintiff and/or putative class
28 members were not provided with a proper itemized statement of wages and deductions, they suffered no injury

1 based on Defendant's alleged failure to provide itemized wage statements.

2 **SIXTEENTH AFFIRMATIVE DEFENSE**

3 **(No Knowing and Intentional Failure)**

4 16. Without admitting the allegations of the Complaint, but rather expressly denying them, the
5 Complaint is barred, in whole or in part, because, even assuming *arguendo* that Plaintiff and/or putative
6 class members were not provided with a proper itemized statement of wages and deductions, Plaintiff and
7 putative class members are not entitled to recover damages or penalties because Defendant's alleged failure
8 to comply with California Labor Code section 226(a) was not a "knowing and intentional failure" under
9 California Labor Code section 226.

10 **SEVENTEENTH AFFIRMATIVE DEFENSE**

11 **(No Willful Conduct / Good Faith Dispute)**

12 17. Without admitting the allegations of the Complaint, but rather expressly denying them, the
13 Complaint is barred, in whole or in part, because any violation of the California Labor Code was an act or
14 omission made in good faith, was not willful, and Defendant had reasonable grounds for believing that
15 the act or omission was not a violation of the law. As such, good faith disputes exist concerning any of
16 Defendant's alleged violations.

17 **EIGHTEENTH AFFIRMATIVE DEFENSE**

18 **(Expenses not Reasonably Incurred)**

19 18. The Complaint is barred, in whole or in part, because, assuming *arguendo* that any alleged
20 expenses were incurred by Plaintiff or putative class members during their employment with Defendant,
21 such expenses were not necessary or reasonably incurred by Plaintiff and putative class members in the
22 course and scope of employment with Defendant.

23 **NINETEENTH AFFIRMATIVE DEFENSE**

24 **(Excessive Fines Unconstitutional)**

25 19. Although Defendant denies that it has committed or have responsibility for any act that could
26 support the recovery against Defendant in this lawsuit, such recovery is barred if any, to the extent any such
27 act is found, because such recovery against Defendant is unconstitutional under numerous provisions of the
28 United States Constitution and California Constitution, including the Excessive Fines Clause of the Eighth

1 Amendment, the Due Process clauses of the Fifth Amendment and Section 1 of the Fourteenth Amendment
2 and other provisions of the United States Constitution, and the Excessive Fines Clause of Section 17 of Article
3 I, the Due Process Clause of Section 7 of Article I and other provisions of the California Constitution.

4 **TWENTIETH AFFIRMATIVE DEFENSE**

5 **(No Jury Trial)**

6 20. Defendant asserts that Plaintiff and putative class members are not entitled to a jury trial in
7 connection with their claims under the California Business and Professions Code section 17200, *et seq.*, and
8 instead must adjudicate their claims by way of a bench trial. *See Nationwide Biweekly Administration, Inc. v.*
9 *Superior Court* (2020) 9 Cal. 5th 279; *Hodge v. Sup. Ct.* (2006) 145 Cal. App. 4th 278.

10 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

11 **(Arbitration)**

12 21. The Complaint is barred, in whole or in part, because Plaintiff and putative class members
13 are bound by their voluntary and written agreements to arbitrate the claims asserted in the Complaint on
14 an individual basis.

15 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

16 **(No Right to Attorney's Fees)**

17 22. The Complaint is barred, in whole or in part, because Plaintiff fails to state a cause or
18 causes of action for attorneys' fees against Defendant on any basis.

19 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

20 **(Right to Recover Attorney's Fees and Costs)**

21 23. Defendant has engaged attorneys' fees to represent its defense of Plaintiff's frivolous,
22 unfounded, and unreasonable action, and Defendant is thereby entitled to an award of reasonable
23 attorneys' fees and costs pursuant to California Code of Civil Procedure section 1021.5 and/or the
24 California Labor Code upon judgement in their favor.

25 **RESERVATION OF RIGHTS**

26 Because the Complaint is couched in conclusory terms, Defendant cannot fully anticipate all
27 defenses that may be applicable to the within actions. The defenses asserted herein are based on
28 Defendants' knowledge, information, and belief at this time. Accordingly, the right to assert additional

1 defenses, if and to the extent that such defenses are applicable, is hereby reserved.
2

3 WHEREFORE, Defendant prays for judgment as follows:

- 4 1. That Plaintiff take nothing by the Complaint;
5 2. That the Complaint be dismissed in its entirety with prejudice, and that judgment be entered
6 for Defendant and against Plaintiff;
7 3. That Plaintiff be denied each and every demand and prayer for relief contained in the Complaint;
8 4. That Defendant be awarded for cost of suits incurred herein, including reasonable
9 attorneys' fees; and
10 5. That Defendant be awarded such other and further relief as the Court deems just and proper.
11

12 Dated: April 19, 2023

JACKSON LEWIS P.C.

13
14 By:



Eric J. Gitig
Orlando Arellano

15
16 Attorneys for Defendant
17 ALCLEAR, LLC
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

CASE NAME: Benny Murray II, et al. v. Alclear, LLC

CASE NUMBER: 23STCV03573

I am employed in the County of LOS ANGELES, State of California. I am over the age of 18 and not a party to the within action; my business address is 725 South Figueroa Street, Suite 2500, Los Angeles, California 90017.

On **April 19, 2023**, I served the foregoing document described as: **DEFENDANT ALCLEAR, LLC'S ANSWER TO PLAINTIFF BENNY MURRAY II'S UNVERIFIED COMPLAINT** in this action by placing ☐ the original ☒ true copy thereof enclosed in a sealed envelope addressed as follows:

Michael R. Crosner
Zachary M. Crosner
Jamie Serb
CROSNER LEGAL, PC
9440 Santa Monica Blvd., Suite 301
Beverly Hills, CA 90210
Tel: 310-496-5818
Fax: 310-510-6429
mike@crosnerlegal.com
zach@crosnerlegal.com
jamie@crosnerlegal.com

Attorney for Plaintiff,
BENNY MURRAY II, as an individual on behalf
of himself and on behalf of all others similarly situated

[X] BY MAIL: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

[X] STATE: I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on **April 19, 2023** at Los Angeles, California.



Vivian A. Castillo

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**Branch Name:** Spring Street Courthouse**Mailing Address:** 312 North Spring Street**City, State and Zip Code:** Los Angeles CA 90012**SHORT TITLE:** BENNY MURRAY, II vs ALCLEAR, LLC**CASE NUMBER:**

23STCV03573

NOTICE OF CONFIRMATION OF ELECTRONIC FILING

The Electronic Filing described by the below summary data was reviewed and accepted by the Superior Court of California, County of LOS ANGELES. In order to process the filing, the fee shown was assessed.

Electronic Filing Summary Data

Electronically Submitted By: Legal Connect

Reference Number: 7440210_2023_04_19_18_34_18_257_9

Submission Number: 23LA00576537

Court Received Date: 04/19/2023

Court Received Time: 6:38 pm

Case Number: 23STCV03573

Case Title: BENNY MURRAY, II vs ALCLEAR, LLC

Location: Spring Street Courthouse

Case Type: Civil Unlimited

Case Category: Other Employment Complaint Case

Jurisdictional Amount: Over \$25,000

Notice Generated Date: 04/20/2023

Notice Generated Time: 9:59 am

Documents Electronically Filed/Received**Status**

Answer

Accepted

Comments

Submitter's Comments:

Clerk's Comments:

Electronic Filing Service Provider Information

Service Provider: Legal Connect

Contact: Legal Connect

Phone: (800) 909-6859

Receipt No: EFM-2023-6247130.1

Date: 4/20/23 9:59 AM
Time: 4/20/23 9:59 AM

CASE # 23STCV03573
BENNY MURRAY, II vs ALCLEAR, LLC

Unlimited Civil- Ans.non-Plaintiff incl. UD- GC70612,70602.5,70602.6	435.00
Complex Civil (each Defendant up to 18k)-Response - GC 70616(b)	1,000.00
Court Transaction Fee	2.25

Case Total: 1,437.25

Total Paid: 1,437.25

23LA00576537